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Abstract

THOU SHALT NOT KILL?

by Steve T. Pawluk

Very little has been said about the homicide law of the Decalogue. Upon reading the sixth commandment, it is often assumed that the prohibition of killing is absolute. If this is so, then serious problems are raised, not only for an act of killing itself, but also for things like self-defense, punishment by death, abortion, and suicide.

It is the purpose of this paper to deal in the following manner with the issue of killing: The first task is to begin with the obvious starting point, the sixth commandment itself. After noting the language used, as well as Hebrew expressions not used, presumably on purpose, it will be seen that the prohibition of killing applies only to the shedding of the innocent blood of a human being within the covenant community.

The second chapter will explore an additional aspect of killing, that is, abortion. There is some discussion as to whether or not Moses directly addressed the issue and if, in fact, abortion is considered to be the taking of innocent life. It is the position of this paper that abortion is not, according to Mosaic law, an act of murder.

The third chapter, in an attempt to deal with the question of suicide, will have to go outside of the Pentateuch for evidence since Moses is silent on this point. Indeed, information in the entire Old Testament is scant and it appears that no completely satisfactory answer can be provided.

Chapter four will examine several cases in which the lawcode is applied, and then the paper will summarize the conclusions reached.

The conclusions of this paper are that (1) all life is from God and belongs to him, (2) the shedding of the innocent blood of a covenant community member is illegal, (3) other types of killing, such as vengence or punishment, rather than going contrary to the lawcode, are required by it, (4) the killing of a non-human or a non-covenant community member was accepted as sometimes being necessary and thus carried out with prudence.

LOMA LINDA UNIVERSITY

Graduate School

THOU SHALT NOT KILL?


by

Steve T. Pawluk

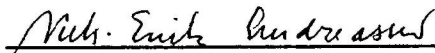
A Thesis in Partial Fulfillment
of the Requirements for the Degree Master of Arts
in Biblical Studies

June 1982

Each person whose signature appears below certifies that this thesis, in his opinion is adequate in scope and quality, as a thesis for the degree Master of Arts.



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Introduction

Attempts to solve problems by violent means appear to have begun quite early on in the history of human existence. As early as the story of Cain and Abēl, recorded in the fourth chapter of Genesis, one individual has killed another for personal reasons such as envy, anger, or an inability to solve an argument in any other manner. At the same time, almost every society has some kind of taboo against murder and/or violence. The taking of innocent life is prohibited or at least looked down upon in either the written codes of a society, such as the Pentateuch; Laws of Hamurabbi Litit-Ishtar, Eshnunna; or in an implied code such as that of the Early Americans prior to European settlement. It is to understand the reasoning behind the prohibition of killing in Biblical times that this paper is written. Its task is to explore several questions: (1) What does the commandment, in the Decalogue, against killing mean? (2) What is the early Hebrew understanding of capital punishment? (3) What is the Pentateuch's view concerning self-defense? (4) What does Hebrew law say about abortion and suicide? (5) Is there a difference in the Pentateuch between stated law and applied law?

It will be demonstrated that the Pentateuch distinguishes between several modes of homicide, only one of which falls under the intent of its prohibition in the sixth commandment. The Mosaic law differentiates between war, self-defense, punishment-death, and the taking of innocent life. Only the latter is prohibited.

The topic of war, since it is of a large and complex nature, will be discussed only briefly in this paper as a point of application in ref-

erence to the sixth commandment. We will focus upon the taking of life on a personal level; that is, between individuals as opposed to violence between tribes or countries and as distinct from the slaying of animals. This killing of individuals is seen by the Pentateuch as sometimes being negative and it is thus prohibited. Elsewhere, such killing is perceived to be necessary and is hence commanded.

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"Lo' Tirsah" - Do Not Kill

The sixth commandment, which prohibits killing, has been the cause for some question. English translations of the Bible leave the reader unclear in his or her thinking as to what exactly is included in that law.¹ Does the term which is translated "to kill" apply to the taking of any life under all circumstances? Will the follower of the Old Testament teachings avoid slaying any living creature, whether it be human or animal, friend or foe? Does the law of Exodus 20:13 apply only to a specific type of killing at certain times? Is capital punishment and war forbidden? Will the Bible believer refuse to kill in defense of himself, his family, his community, or his country, on the basis of the sixth commandment? These are questions which are raised by the English translation of the law, and an accurate answer can be developed only when certain linguistic and historical factors are taken into consideration.

Not only is the modern Bible reader once removed from the meaning of the original commandment because of the differences of language, but the student of the Law is also hampered by the fact that he lives in a different context of thought and time than was in existence during the writing of Exodus.² If one were to take the English translation of the Scriptures at face value, that reader would most likely conclude that the sixth commandment forbids the taking of life under all circumstances. However, this leaves some glaring historical and logical incongruities.³ What is meant by "Thou shalt not kill?"

Terminology

There are several verbs used in the books of Moses which are translated "to kill." Among these are הרג harag, הלל halal, מות muth, נכה nakah, קטל katal, and רסח rasah. There are three others, but they apply only to the slaughter of animals.⁴ Three of the above terms appear to be general in their description of the type of, or reason for, killing. The verbs halal, muth, and nakah tend to emphasize the method of killing rather than the motive or intention of the one committing the act.⁵ Harag, katal, and rasah, however, are translated, at least some of the time in their Old Testament usage, by the word "murder" that is, a willful taking of human life by one's own initiative for personal reasons. It is significant that one of these three is used in the sixth commandment.

Harag is the most divergent in meaning of the three words in that it can be rendered as "to slay, murder, legally execute," and can apply to the slaughtering of animals as well. It does seem to be used according to a pattern however, in that, in all but one instance, it denotes the killing of a person by one who is not a member of the same community.⁶ Abraham is afraid that he will be killed on account of Sarah by the Egyptians (Gn 12:12), Esau wishes to murder his estranged runaway brother Jacob (Gn 27:42), the Israelites are to destroy those who have severed themselves from the covenant community (Lv 20:16; Nm 31:17-19; Dt 13:9), and Baalam is intent upon slaughtering his donkey (Nm 22:29). Each event is one that occurs between members of two different groups. Harag applies to killings for many reasons, but these are the deaths of those not related to the

slayer's family or tribe.

Katal is used three times in its verbal form in the Old Testament, and all three instances are in the Kal imperfect tense. The texts in which it is so found are Job 13:15; 24:14; and Ps 139:19. The usage of the word in Job 13:15 and Ps 139:19 denotes a slaying by an authority figure, in this case, God. Katal is used in a like manner in the book of Daniel.⁷ The only exception to this usage is found in Job 24:14 where the verb is properly translated, according to context, as "to murder." It is interesting to notice however, that katal in this sentence is qualified by the participial form of rasah, "the murdering one."

Having said this, it may be significant to note that the commandment in Ex 20:13 uses the verb rasah and not the others.

John Yoder, in his exegesis of rasah, suggests that this was a term used primarily for unintentional homicide and, in one particular case, for an act of murder as well as its punishment, i.e. the death penalty.⁸

Gerhard von Rad, in a more precise explanation of the meaning of rasah, states that it should not be translated strictly as "to kill," nor is it properly to be applied to killing during a war. In addition to this, it is, he claims, a misuse of the term to apply it to the administration of justice. Von Rad disagrees with the translation found in some Bibles, that of "murder," and points out that rasah is at times used also for accidental homicide. He concludes, on this basis, that the sixth commandment is addressing the problem of anti-social killing, but does not explain what he means by that terminology.⁹

Brevard Childs takes the argument a bit further than that by indicating that rasah refers to unintentional killing as well as premeditated murder, quoting as evidence Dt 4:41 and Js 20:3. Childs also thinks that rasah, even though it is a relatively rare choice of words, is an important term because of the fact that it is used instead of harag and muth.¹⁰ It is on this basis that he states, following J.J. Stamm, that rasah in contrast to harag and muth, denotes "illegal killing inimical to the community; . . . the life of the Israelite was protected in this way from illegal impermissable violence."¹¹ J.J. Stamm and M.E. Andrew suggest that both harag and muth mean several possible things: (1) killing one's personal enemy, murdering him, (2) killing a political enemy in battle, (3) killing one who was punishable according to the law, and (4) death as a judgment of God. This is contrasted with rasah, which means the murdering of a personal enemy. Only once is it used to signify the act of capital punishment, and never is it used to mean the slaying of an enemy in battle or death as a result of God's action.¹²

Childs notes that rasah is often used in connection with blood vengeance and the avenger, thus leading to the view that the prohibition of Ex 20:13 is intended to make illegal both intentional murder and retaliatory killing.¹³

It appears, on the weight of textual evidence, that Stamm's distinction between legal and illegal killing cannot stand. As Childs concludes,

The verb came to designate those acts of violence against a person which arose from personal feelings or hatred and malice. The command in its present form forbids an act of violence and rejects the right of a person to take the law into his own hands out of a feeling of personal injury.¹⁴

Contextual Setting of the

Sixth Commandment

Perhaps a clearer view can be achieved when the matter is considered from another angle. In his arguments, Brevard Childs puts forth the idea that the prohibition against killing is tied into the concept of the sanctity of blood, as is first evidenced in Gn 9:6.¹⁵ That same idea is taken up by John Yoder who also sees a pattern, established in the Hebrew community in reference to God, in several stages of restriction. He detects a flow of thought in the law as follows:

1. Touch not the mountian (Ex 19:13)
2. Touch not thy neighbor's spouse, goods, house, etc. (Ex 20:14-17)
3. Touch not thy neighbor's life blood (Ex 20:13)¹⁶

The pattern is an interesting one that is buttressed by the relationship between life and blood in the mind of the Hebrew.¹⁷ This attitude or belief is suggested by the earlier words of God to Cain in Gn 4:10 when God confronts him with the statement, "The voice of your brother's blood cries to me from the ground." Presumably the blood is crying out to God for justice, however, it could be implied furthermore, that the blood belongs to God, the giver of life, and it is crying to him for release from the ground where it was violently placed by Cain's hand.¹⁸

Moshe Greenberg has already explored this view and has derived

several points from it:

1. The shedding of innocent blood always causes bloodguilt, even when accidental (Nm 35:31-33; cf. Dt 19:10)
2. Avenging innocently shed blood does not result in blood-guilt, because the one being killed is not innocent (Nm 35:27)
 - a. God demands the blood of all lives from anyone who takes it (Gn 9:5)
 - b. Intention, or lack of it, makes no difference. Consider the case of an ox killing a man. No intent can be presumed, because the ox is not a rational animal, yet bloodguilt exists (Ex 21:28; cf. vv. 29-32)¹⁹

The above propositions hold true even under closer scrutiny, for it becomes evident that there are no exceptions. The kinsman of the slain cannot pardon or expunge the guilt of the one who did wrong, nor is he allowed to make deals with the slayer, for the bloodguilt is absolute.²⁰

The one variant of the rule is that the owner of an ox which gored a person to death is not held personally liable for the actions of the ox, for the keeper of the ox did not personally and with malice commit the slaying. He is not guilty of blood, but the ox is.²¹ As Greenberg indicates, "Deuteronomy 19:12f has entirely replaced the right of the kinsman to dispose as he wishes of the murderer with the unconditional death penalty."²² It is noteworthy that all shedding of innocent blood must be expiated by shed blood. At the same time, no crime against property is ever stated in the Pentateuch as being punishable by death. According to Greenberg, this is unlike any other law in the ancient Near East. Hebrew laws were very harsh when dealing with the taking of human life, but were rather lenient when dealing with property crimes such as theft

or property damage. This is not so in the law codes of civilizations that were contemporary with the Hebrews at about the time of the Exodus.²³

As has already been stated, and as McKeating also points out, only in one instance in all ancient Hebrew law is money compensation for death allowed, and that is in the case of the owner of an ox which has taken a life.²⁴ The idea is further buttressed in Dt 24:16 which demands that the actual offender, and no one else, is to be punished, and as has already been indicated, the only possible punishment is the death of the criminal. Thus, it may be concluded that the significant factor that determines the rightness or wrongness of the homicide lies not so much in the reason that the killer gives for his killing, although that is of some consequence as shall be explained later, but rather it hinges primarily on the innocence of the blood which is shed. The status of the killer as guilty or innocent depends largely upon the question of who the victim is.

An example of the above statement could be found in Ex 22:2,3. A householder realizes, at a time before sunrise, that there is an intruder in the house. Presumably the intruder expects someone to be home during the hours of the night and thus he can be perceived as one who is willing to kill the occupant to achieve his goals. The law provides that the one dwelling in the house, acting in self-defense and killing the intruder, is not shedding innocent blood, for the housebreaker was assumed to be a potential killer himself. However, if the owner of the house slays the intruder after the sun is risen, then he is declared to be guilty of murder.

This can be understood in two different ways. The assumption could be that the intruder is breaking in during the day, a time when he could reasonably expect that the owner of the house is at work, thus giving evidence that while he may be a robber, he is probably not a murderer, and therefore not deserving of death.

An alternative explanation could be that Ex 22:3 refers to a slaying motivated by revenge, where the householder discovers the identity of the thief and kills him in retaliation after the sun has risen, that is, the next day. This action would leave the man who was merely robbed, guilty of shedding blood of one who is not deserving of death, because of personal malice and hate stimulated by a property crime. It is assumed that he ought to have reported the crime to the elders who could have applied the law according to its requirements.

An additional factor is to be considered in the event of an unsolved murder. Dt 21:1-9 makes provision for this possibility by stating that in this situation, the following steps would have to be taken:

1. Elders and judges determine to which city the site of the murder is closest.
2. Elders of that city take a heifer which has not worn a yoke or done any work, and cut off its head in an uncultivated valley.
3. Priests and the elders shall wash their hands over the decapitated heifer and declare their innocence of the crime.
4. They then ask God to clear them of bloodguilt.

McKeating suggests that this ritual is not merely a sacrifice, but rather an expiation. Since the identity of the slayer is unknown, the elders of the town nearest to the place of the crime must, in a sense, release the blood to God from the land.²⁵

This is further borne out by Nm 35:33 in which the law states that bloodguilt pollutes the land, and the land cannot be cleansed of the blood except by the shedding of the blood of the murderer. In the case of an unknown murderer, an expiatory killing of an animal must then take place.²⁶

There is one category of homicide, according to the law, in which death was not the punishment for the shedding of innocent blood. The case is that of an accidental killing. According to Nm 35:6, the one that took the life of an innocent person by accident was to run to a city of refuge and to remain there for an indefinite period of time which ended only at the death of the high priest.

Moshe Greenberg explains that this is, rather than a circumvention of law, a type of expiation of guilt.²⁷

In this situation, one finds an enforced detention, a kind of punitive exile. The only factor that can allow the killer to leave the city without the risk of death is the death of the high priest. Greenberg considers this rather unusual provision to have a religious-cultic importance. The high priest, being a unique religious figure, and in some ways a carrier of the sins of the people, plays a special role in the community.²⁸ It is possible that his death could be seen as having an expiatory value.²⁹

In that event, the city of refuge can be considered to be both a prison and an asylum until the bloodguilt is eradicated by the death, or blood, of the high priest. It is interesting to note that the very fact that there is a city of refuge presupposes that the kinsman has a right and a duty to pursue the killer of his relative. The elders of the city do nothing more than to adjudicate on the plea, but the process of law is completed as the vengeance of guilt falls on the nearest family member.³⁰ If the killing is accidental, the avenger allows the killer to find asylum in the city of refuge, which is at the same time the slayer's prison and refuge, until the blood of the high priest expiates him of his bloodguilt.

Conclusion

With this explanation for Ex 20:13, it can be concluded that the sixth commandment prohibits the taking of innocent blood within the covenant community under any circumstances regardless of motivation. The commandment also prohibits killing as an act of lawless revenge, but makes it necessary for the injured family to seek the judgment of the elders. In no way can the law forbidding murder be taken as a basis for an opinion concerning the question of war, killing as a defensive measure, or the slaying of animals. To make a judgment on these issues on the basis of the sixth commandment goes beyond the wording, as well as the intent, of the law. The commandment speaks only to the issue of taking innocent life or lawless revenge within the covenant community.³¹ Thus the lawkeeper will see in the sixth commandment a statement of the value of human life

as well as a reminder that it belongs, ultimately, to God. As a result, the follower of the law will do all that is possible to preserve life, and will, on the other side of the issue, do all that can be done to bring those who take life less seriously and shed innocent blood, to the fullest degree of justice possible within the laws of the land.

Abortion: The Taking of Innocent Life?

The question of taking an innocent life eventually leads to one additional consideration, that of abortion. There is little doubt, if any, concerning the innocence of an unborn child. That can be presumed. The point of argument is hinged upon the issue as to whether or not an unborn fetus can be considered to be a living human, for only a living human can, in a legal sense, be murdered. Unfortunately, the Mosaic law-code does not make a direct statement on this factor. There is no mention at all of voluntary abortion and only one statement concerning what appears to be an accidental abortion. Due to this situation, any information that can be applied to the issue of voluntary abortion today must be gleaned from the Old Testament law in a rather circuitous fashion.

In the latter part of the 1960s, the issue of abortion became widely discussed. Among those interested in the question were Jack W. Cottrell, H. Wayne House, and Bruce Waltke.¹ Bruce Waltke seems to have initiated a great deal of thought by publishing two articles on the subject.² Waltke takes the view reflected by most Bible translations that Ex 21:22-25 is a text that allows abortion to be practiced today and bases that opinion on the belief that the wording of the law suggests that the abortion of a fetus is not in any way to be considered the taking of an innocent life because the unborn child is not yet considered to be a human being during gestation.

The paragraph that, at least in part, was the cause for much of the discussion, stated that:

A second factor suggesting that abortion was permissible is that God does not regard the fetus as a soul, no matter how far gestation has progressed. The Law plainly exacts: "If a man kills any human life he will be put to death" (Lev. 24:17). But according to Exodus 21:22-24, the destruction of a fetus is not a capital offense. The divine law reads: "When men struggle together and one of them pushes a pregnant woman and she suffers a miscarriage but no other harm happens, he shall be fined according as the woman's husband may exact from him. . . . But if harm does ensue, then you shall impose soul for soul. . . ." Clearly then, in contrast to the mother, the fetus is not reckoned as a soul. The money compensation seems to have been imposed not to protect the fetus but rather to compensate the father for his loss.³

Both Cottrell and House take the position that such a view of Ex 21 is a mistranslation of the text and a misunderstanding of its intent. They argue that the text does in actuality consider the fetus as having a value equal to that of any other human being.⁴

The key to the argument is the matter of translation. Most modern translations render Ex 21:22-25 as saying that if two men are fighting and somehow during that struggle they strike a pregnant woman so that she miscarries, the offender, who has not murdered but who has destroyed property, must be fined according to a price set by the woman's husband and limited to what the court allows. Only if there is serious injury to the mother does the law of lex talionis come into effect.⁵ Thus the text seems to imply that an unborn child is less than human, for as has already been established, the Pentateuch demands life for life. Monetary fines are imposed only upon destruction of property. This would further indicate that the fetus, rather than being considered to be a human in its own right, is treated much like a possession of the father. This would be a situation similar to that when livestock is injured or killed and a

fine is levied as a result.⁶ If the fetus is not truly a human being, as this understanding of the text suggests, then there is not any question of homicide and the subject should more properly be treated in a paper concerning property crimes.

It happens however, that Cottrell and House raise some serious questions regarding what at first reading seems to be an obvious interpretation. Wayne House refers to a study by U. Cassuto in which he demonstrates that the verb **𐤏𐤃** yasa' does not mean to miscarry or abort, but rather that it indicates a regular birth or possibly, in some cases, a premature birth, but a real birth nevertheless.⁷ House points out that not once in the Biblical records is the term yasa' applied to miscarriage, but rather it is consistently used to denote a coming or going out of a thing.⁸ Support for this view can be found in Gn 25:25 where it is said that Esau yasa' (came out, was born) red. Likewise, concerning the birth of Zerah, Gn 38:28 states that he yasa' (came out, was born) first. Relying upon Brown, Driver, and Briggs, Cassuto concludes that the consistent meaning of yasa' is "to come out."⁹ House notes that "Most, like Waltke, take **𐤏𐤃** as the 'child miscarries or aborts;' however, there seems to be no lexicographical or impelling contextual reason for doing so."¹⁰

In addition to this, House deems it significant to note that there is a cognate for yasa' in the Ugaritic texts, and while there was no example in which the term denoted a birth, it did consistently mean "to come out."¹¹

One additional factor to be considered is, according to House, the fact that there is a separate Hebrew word for miscarriage, that is, לָוַי sacal.¹² The term is used several times in the Pentateuch as well as elsewhere. Examples of its usage can be found in Gn 31:38 where it is said that Laban's sheep and goats have not sacal (aborted) their young. Lest it be thought that the term might apply only to livestock, it should be noted that sacal is used in Ex 23:26 and Ho 9:14 with reference to women miscarrying. Furthermore, there is an additional corroboration found in the Ugaritic texts, where the cognate verb has a meaning like the Hebrew term.¹³

Thus House concludes that Moses could have used the proper term had he intended to mean miscarriage. The fact that the Pentateuchal author preferred one term over the other seems to provide a significant argument in favor of the view that the text of Ex 21:22-25 refers to a regular birth and not to a miscarriage.

In his study of the problem, House found it to be further significant that the word which has been translated fetus in most Bibles is the same Hebrew word that is applied to a child, son, boy, or youth. He quotes Keil and Delitzsch who also feel that the noun יָלָד yalad indicates that "There seems to be no distinction in Moses' mind between a fetus and a normal child."¹⁴

While this position may have some merit due to linguistic arguments, it is not so strong that it can be said, as Cottrell did, quoted by House with an additional note of his own, "'The weight of scholarly

opinion . . . is outweighed by the text itself.' The text then gives no credence to abortion of the fetus but rather reveals the sanctity of both adult and fetal life."¹⁵ There are some other items of information that need to be considered before a conclusion can be drawn. Waltke suggests that it is important to compare this Mosaic law with other laws of the same time period. It is at least interesting to note that Assyrian laws, stated in language closely parallel to that of Ex 21, explicitly refer to a miscarriage of the fetus and clearly do not hold the unborn child to be in any way equal to the value of a born human being.¹⁶

Even Cottrell, while arguing that the fetus and a child that is born have equal value, does concede that the Talmud, in many references to this text, sees it as a case of abortion with the lost fetus as being "equivalent to a property loss on the part of the father."¹⁷ Cottrell indicates that this view held by the Talmud is not singular, but is a prominent view among scholars. Among these are John Peter Lange and S.R. Driver, both of whom consider the incident to refer to an abortion but with no further injury to the mother, hence, a property loss.¹⁸

One aspect of the question which has not been discussed by any of these gentlemen is the physiological aspect. According to various authorities in the field,¹⁹ any violence done to the mother who is carrying a child is most likely, if the pregnancy is terminated as a result, to end in a miscarriage than it is to result in a premature live birth.

A child that "comes out," to use the text's terminology, prior to seven months of pregnancy, is not yet developed to the point where it can exist on its own. The only possible instance of a developing

fetus living outside of its mother's womb, especially a fetus that is less than seven months along in development, might be under closely guarded hospital or laboratory conditions with the most sophisticated equipment known today. Needless to say, these conditions did not exist in Biblical times, hence, for all practical purposes, any fetus that comes out prior to seven or eight months of development will not live. An embryo that comes out as a result of violence done to the carrying mother after seven months of pregnancy might be able to live, but again, for all practical purposes, only with hospital attention. Not unless the birth of the child were to occur exceedingly soon would the striking of the mother be likely to end with a live birth. In other words, if it is to be assumed that the law of Ex 21 does indeed refer to a live birth, then it must be applicable only in the cases of mothers who have been pregnant for at least seven or eight months and who are carrying exceptionally disaster-proof children. On the other hand, such a view of the law of Ex 21 would automatically exclude all mothers who are less than eight months pregnant. Thus, one would be compelled to conclude that this is an extremely specific commandment, indeed so specific that it is of little worth on a daily basis in a Hebrew community during Bible times. In addition to this, one would begin raising questions concerning expectant mothers who are not protected by that specific law. With this factor in mind, much of the preceding linguistic argument becomes, at best, academic; and probably in reality, amounts to a useless discussion.

House has said that there "seems to be no lexicographical or impelling contextual reason" for viewing the text as one which concerns itself with abortion.²⁰ As a matter of fact, he goes so far as to say that the Old Testament does not speak at all about abortion directly because there was no need. House states that,

The strong desire to maintain the family name in the Near East may account for the rarity of abortion. Children, born and unborn, were apparently held in high esteem, especially male children. Even child sacrifice, which prima facie is total disregard for the young lives, may be seen, in view of the sacredness of the event for the worshippers, as an offering of their very best. The total lack of a case law on abortion or miscarriage in Israel may be due to the concern for the family name making it unnecessary. As well, it may be due to a Messianic consciousness, of Messiah coming through a Jewish woman, making abortion, or the like, totally unthinkable, and certainly needing no law to counteract it.²¹

Thus, says the author, it is reasonable to conclude that the fine was given, not as payment for a lost fetus, but because of either mental or physical discomfort caused to the mother. If bodily harm of a significant amount (eye, tooth, limb) took place against the mother or child, then the rule of lex talionis is applied. Both Cottrell and House conclude that the text of Ex 21:22-25 is not a statement dealing with abortion, but rather is a protection of the rights of both the mother and her child.

While both sides of the question present valid points that need to be considered, it seems that the position that the fetus is an equal human being is the weaker of the two for the following reasons:

A great deal of the argument hinges upon the information that yasa' meant "to come out" and that there was a separate term for miscarriage which Moses did not choose to employ. Thus, it was said to be reasonable that Moses was referring to a live birth. However, in the

face of the fact that a live birth was not probable, albeit possible, it would be prudent for the law to be worded in the most widely possibly understood way. If the word miscarriage had been expressly employed, then there would be a question, perhaps, concerning the event of a live birth. The fact that a more ambiguous term is used allows the law to apply to all cases, whether it be an improbable live birth or a miscarriage. In either case, a harmful act has been done to the mother. In both cases nothing can or needs to be done about the "coming out." If the child lives, there is no problem. If the child is dead, the father has lost some property and a potential help on his land, and the fine would be increased accordingly. The term "to come out" would be appropriate in both cases.

The weight of the evidence [(1) the possible application of the term yasah' (2) Talmudic and scholarly confirmation, (3) the similarity of Assyrian laws, (4) the physiological aspect] seems to indicate that the unborn fetus is just that, an unborn fetus. It does not seem to be considered a human being with human rights unless and until it is born. Naturally, the birth of a live child would be desirable in light of economic, and following House's thinking, Messianic considerations, nevertheless, the reality of the matter is that human existence was considered to begin at birth.

It is not the intention of this paper to intimate that abortions should be carried out at will in modern times on the authority of this text. It is the position of this paper however, to suggest that this text

does open the possibility of abortion. The text does indicate that, according to Old Testament thinking, the unborn fetus is not to be considered a human being, hence an abortion is not equal to the shedding of innocent blood. The wording and sense of the text indicate that the fetus is not considered to be a living human being and while it would seem, in the context of Biblical times, foolish to terminate a potential life, by no means is such a termination considered to be an act of murder. Of course, this statement is made on the basis of a law concerning involuntary abortion. It does seem that, in theory at least, a transfer can be made to be applicable to the principle concerning voluntary abortion. It is true, as was indicated earlier, that the Old Testament makes no statement concerning voluntary abortion. Whether the fact that the Old Testament is silent on this matter allows abortion, is open to speculation. The silence may be interpreted to mean that there is no prohibition, or it may mean that such a thing was not even considered, and thus no official statement was necessary. In a largely agricultural society, it would seem that the second option is more likely to be true. Thus, it remains to be decided, on an individual basis, whether or not the principle concerning involuntary abortion can be transferred to the issue of voluntary abortion. It is the position of this paper that it can be transferred, for whether or not an abortion is voluntary, the fact remains that the Old Testament thinkers did not consider the fetus to be a human being. If the fetus is not a human being, then it can not, in a legal sense, be murdered.

This is not to say that the factor of murder is the only one to be considered in today's society. In present times, while in many instances the economic and Messianic arguments might not prove valid, one who wishes to follow the intent of God's ways must think in the sense of potentialities. While aborting a pregnancy may not be considered a violation of the sixth commandment, the individual must still weigh the factor of the potential existence of a human being.

Does it, in fact, follow that since the Scripture does not appear to consider an accidental miscarriage as an act of shedding innocent blood, a voluntary miscarriage is to be condoned? While the Pentateuch is silent on this matter, evidently due to cultural desires concerning child bearing, it could be argued that the sixth commandment's implied statement on the desirability of life and the subsequent need to protect it would indicate that, at the very least, the option of abortion be not lightly taken. It might be concluded that an unavoidable abortion would be dealt with in one way, as a property loss, but a voluntary abortion would be considered to be a premeditated and willful termination of a potential life. At this point the issue becomes enormously complex and would lead away from the intent of this paper. The question as to a definition of life, the significance of the quality of the potential life, the right of the parent to make choices as to the significance of the quality of that life; all would need to be carefully examined.

Thus the question remains an open one. The Pentateuch treats an unavoidable abortion less seriously than a murder. At the same time, the

concept of the sanctity of life as seen in the five books of Moses suggests that a willful and premeditated abortion be carried out only after satisfactory answers have been formulated to these very major questions.

Suicide: Punishable by Death?

The question of suicide must also be explored when discussing the Pentateuchal view of homicide. It is interesting to notice that the question of suicide has been approached in modern literature from a psychological, a theological, and a philosophical viewpoint, but little if anything has been written about a Scriptural view of the subject. There appears to be one very strong reason for this. The Old Testament makes no legal statement about suicide. Any statement about this subject must be found outside the legal codes and in the biographies of the Old Testament. When the subject is approached in the narratives, it is mentioned with a matter of fact tone, with an almost casual approach, not in any noticeable way with the shock or condemnation that has come to be associated with the act of suicide in present times.

The silence of the Pentateuch on this issue can be understood in two possible ways: (1) that suicide was not considered to be a crime, or (2) that suicide was not only the taking of an innocent life, but also, at the very same instant, a punishment of the criminal and thus a closed case for which no law was necessary.

Two stories will be evaluated, both requiring information from outside of the Pentateuch, so it will be necessary, to some degree, to widen the scope of this paper in order to acquire pertinent information regarding this subject.

One case is that of Saul in a battle against the Philistines.¹ The fighting was heavy around Saul and in the fracas he was critically

wounded. At that point Saul asked his armor-bearer to kill him so that he would not have to suffer the agony of dying nor the shame of being killed by an uncircumcised enemy. The armor-bearer refused, undoubtedly because such an act would comprise the taking of an innocent life. At that moment, Saul fell upon his own sword, whereupon the armor-bearer did likewise. The narrative makes no judgment of the act but merely mentions it as fact.² No mention is ever made again about the suicide of the armor-bearer and Saul's self-inflicted death is mentioned only once in a lament sung by David.³ No mention is made of an attitude of shock, nor is there a voice of censure. Instead, the event is treated as a heroic battle attempt, and the death of Saul is, along with the death of his son Jonathan, described as a battle death and an event of bravery. If there is any stigma attached to suicide in the mind of David, it is not evident.

One factor to be considered is the fact that Saul, at least as far as he could ascertain, was already dying with no hope of healing or recovery. This raises some interesting questions: (1) Is the self-inflicted death of a dying man considered to be suicide? (2) If so, does the original cause of death carry a lesser consideration than if it had been the sole cause of the individual's death? (3) If not, at what point in one's existence is one clearly dying an immanent and irreversable death and thus permitted to hasten the event?

Technically speaking, the cause of death would be the original

wound, since it would be presumed that the individual would not, at least in a case like Saul's, seek to take his own life if he were not already being caused to die. The self-inflicted wound would thus be the only viable way to avoid extreme pain or mental duress. The variables in this line of reasoning are, of course, the terms viable, only, and extreme. The ethical considerations would be to ask who is to make the ultimate decision as to what constitutes only, viable, and extreme. In the case of Saul, the issue seems to be fairly clear. Saul was dying a sure though somewhat slow death. He fell upon his sword, not because he did not want to live, but in order to hasten a process that was already in progress and irreversable. Whether his remaining few moments can be considered living is a question that does not seem to have much of an answer.

If, for the sake of argument, Saul's act is not suicide, but his death is the result of wounds received in battle as David says in his song, the modern applications of this story could be far-reaching. At what point does a terminally ill patient have the right to say that he is merely hastening a death already in progress? At what point can a suicide be said to be the result of outside circumstances that in themselves caused the death? Is it morally right to hasten death at any time, or for that matter, to retard an inevitable death? At what point does one cease to live? It is clear that by asking these questions one has clearly left the issue of suicide far behind. Yet in application of Old Testament teachings to modern times, these issues must be at least considered. Thus, to return

to the point of this paper, if Saul did commit suicide, there is no censure. It seems more probable that, upon analysis, Saul's case is not in fact a case of suicide at all in the mind of David, but a battle related death, caused by the enemy, and worthy of honor.

The second case is that of Samson, mentioned in Jg 16:23-31. Samson, with the power given to him one last time by God, destroys a Philistine temple, in an act of revenge in full accordance with the Mosaic law code, killing about three thousand men plus women, and intentionally killing himself as well. Verse 30 indicates that Samson's prayer to God included a wish for his own death, a request that God honored. Verse 31 further informs the reader that Samson received an honorable burial. No mention is made of his revenge-suicide as being beyond the scope of, or contrary to, the Pentateuchal law. The story is written in such a way as to suggest that not only was Samson's suicide an act of bravery, but it was an act that was done with the help of God himself. An interesting additional note is that even hundreds of years later, Samson's name is listed among the heroes of faith in He 11:32.

It could be argued that Samson's death was secondary to his act of aggression on the Philistines and thus, in a sense, an act of war that resulted in Samson's death. The problem in such a view is the prayer of Samson asking for death, as well as the fact that God answered the prayer. It seems that there is no other explanation than to say that Samson willingly ended his own life with the help of God, and in this case at least, no crime or sin was committed.

While the information connected with these two cases does not necessarily condone suicide as a positive method of solving insurmountable problems, it is clear that suicide was not automatically condemned by the Biblical authors. To be sure, any argument based on a lack of facts is bound to be a weak argument, yet it can be said that suicide, according to the Biblical authors, is not automatically an act that receives condemnation. On the basis of the very scant evidence that does exist in the Old Testament, it may be said that the event of suicide is portrayed as a special situation, contingent upon many factors, and one that must be dealt with individually since no conclusive or blanket law or answer is provided. It does seem apparent, at least on the basis of the story of Samson, that there are instances in which suicide is a useful option. While the fact that the story of Samson is the only instance in the Old Testament of a suicide with God's aid should indicate that suicide as an option is an extremely rare case, it also can offer the assurance of knowing that just because one has committed suicide, he has not necessarily violated the eternal law of God.

Case Studies

There are three cases in the Old Testament, two of them outside of the Pentateuch, that might lend some understanding as to how the homicide laws were applied.

One of the most readily thought of homicides of the Old Testament is the case of Cain and Abel.¹ After an argument between the two brothers concerning the appropriateness of an offering to the Lord, Cain invited his brother Abel out into the field and killed him.² There are some items of significance in the story that need to be considered in order to establish motivation:

1. Cain was very angry (vs. 5)
2. The Lord warned Cain (vv. 6,7)
 - a. God informed Cain that if he did right, he would be accepted.
 - b. God warned Cain that if he did not do right, sin was waiting to overcome him.
 - c. Cain was advised to master and overcome sin.
3. Cain lured Abel out into the field, signifying a pre-meditated act. (vs. 8)

Thus a motive of anger and jealousy can be determined. Any killing that would follow would be clearly a violation of homicide law. Even after the killing, God approached Cain with the statement that Abel's blood was crying out to be released or avenged, thus implying that the blood that was shed was innocent blood. According to the laws of the Pentateuch, Cain ought to have been given the death penalty. Note however, that

this did not occur. Instead, he received a curse, banishment, and a promise from God that his life would be spared. So Cain went away from the presence of the Lord and lived in the land of wandering.³

At first glance, it appears that the sixth commandment has been violated by Cain and that God himself shares in the guilt of the crime by excusing Cain rather than demanding vengeance for Abel's blood. Thus perhaps it can be assumed that there are exceptions to the law or that God deals less severely with murder between family members. That God was lenient in his dealing with Cain is not in question. What should be given careful thought is the reason for such leniency. The assumptions mentioned above may not be correct. There are some extenuating circumstances in this particular event that set it apart from other examples of homicide law:

1. It is true that this story has been recorded by Moses in such a way that it is clearly a case of unjustifiable homicide.
2. It must be kept in mind however, that if one is to take the Pentateuchal narrative as a whole, at the time of this killing, there was as yet no legal code that dealt with murder and its punishment.
3. According to Mosaic history, this instance is the first time a human life was ended.
4. Although it must remain highly speculative, the fact that the storyteller uses the word harag instead of rasah for this killing may be a subtle method of indicating to the hearer/reader of the story that this killing is in several ways different than subsequent killings, especially in light of the fact that this is the first killing of a human being.

This act of Cain appears to be not so much a violation of a law, especially since no law had at that time been stated, but rather an event that compelled God to instruct the human race further concerning

the results of sin, and the proper way of thinking of it. No lawcode had been violated for one did not yet exist. However, life had been taken and this event forced God to inform the human race of the wrongness of such a practice.

Until this point, it might be presumed, human beings were merely beginning to work out the effects of sin in their lives. An Edenic lifestyle which God had pronounced as being good was slowly being eroded by a new-found sinfulness. It would be unreasonable to assume that man became immediately immoral and lived a totally depraved style of life after the fall. The story of Gn 1 - 10 seems to indicate a progression of sinfulness. It is likely that man was still somewhat controlled by an "instinct" for goodness at the time of this killing, and that Cain had to consciously override this internal barrier. Thus God confronted Cain on the basis of his internal barrier to killing. Cain's act was one that went against the grain of his past experiences, yet one that could be adjusted to with only a little difficulty. Thus God must place sanctions upon killing fellow human beings in order to avert what could easily become a casual solution to interpersonal problems.

Yet, since it was a first offence for the race, and as such, a learning experience rather than open violation of law, a more lenient punishment would be just. On the other hand, the punishment would have to be sufficient to make a statement concerning the evil of killing another human being. And so Cain was sent to wander, away from the presence of God; a punishment as harsh as possible short of taking Cain's life. A

sentence that would not shortly end, for God protected Cain's life, so that no one else would kill him and lessen the severity of the punishment. While Cain had nothing to fear as far as a legal punishment was concerned, the danger of retaliation because of anger was to be considered, thus God stated that the punishment of the one who retaliates would be seven times greater, for now God had spoken concerning the sinfulness of killing.⁴

This case then, is not in actuality a case of applied law, for law did not at that time exist. It is rather an introduction to the crime and its seriousness as well as a statement of the fairness of God in dealing with evil. It is an event that informed the human race, instead of carrying out the sentence for a crime that it was not informed about; and thus, in this case, a punishment of death would not be fair or reasonable.⁵

This case might be compared to a case of similar leniency found in 2 S 14. The story relates how a widow woman approached King David and explained to him that her only two sons had had an argument. In the process, one son had killed the other. Other relatives were anxious to fulfill the letter of the law and put the remaining son who had murdered his brother, to death. The woman appealed to David for mercy on the grounds that he was her only remaining son (vs. 7), and thus no male heir would be left to carry on the family name. There also seems to be a veiled implication that with the removal of the remaining son, the other relatives would become heir to the woman's property and this was what enhanced their desire for justice to be done.

It is of interest to note that even when David told her to go home (vs. 8) and to be assured that he would rule on the matter, the woman suggests (vs. 9) that David is sidestepping the matter, presumably because he does not want to share in the bloodguilt that would rest on those who do not carry out justice. This would explain the woman's statement that she would be willing to accept all of the bloodguilt, and hence David would be free to spare the life of her son. The situation is not one in which guilt is removed from the woman's son, but one in which the woman is prepared to accept the guilt of allowing him to live even though it was clearly against the law to let a murderer live. In this case, hypothetical though it may be, is found an illustration that any leniency concerning a murderer brings with it additional bloodguilt on the part of those not willing to avenge the shedding of innocent blood.⁶

A second illustration of applied law is recorded in I S 24. King Saul, motivated by jealousy and anger much the same as Cain, had for some time hunted David with the intention of killing him.⁷ David, with his army, which was about one fifth the size of the army with which Saul was pursuing him, hid in a cave in En-gedi.⁸ Up to this point, David's army had been at a considerable disadvantage because of the lesser number of troops that they had. The advantage changed when Saul entered the very cave in which David and his men were hiding. Saul was alone and had gone in to relieve himself, hardly a fighting position. The men of David suggested that advantage be taken of the situation and that David kill Saul and end the pursuit. It was reasoned that the Lord had given Saul

into their hands, a view that Saul later stated himself.⁹ On the basis of the words of the king himself, ". . . you did not kill me when the Lord put me into your hands. For if a man finds his enemy, will he let him go away safe?" (vv. 17,18), a killing in this event would have been justifiable on two counts: that of self-defense; and that of killing an enemy, one who by his own admission had put himself outside of the protection provided by the law which stated "lo' tirsah."¹⁰ Had David killed Saul at that time, he would have been in full accord with the letter of the law. However, David, presumably in an attempt to show his total justice, went beyond the statement of the lawcodes and fulfilled its intent by dealing with the situation in an alternate manner that placed a high premium on all life, even life that legally could be terminated. David was under no obligation to kill Saul, for the king had not yet shed the lifeblood of David nor anyone in his family for whom David would have to seek vengeance. David had the right to kill Saul for Saul had endangered his life and was acting as his enemy. David, acting within the intent of the sixth commandment, stopped Saul's rash behavior and at the same time did so without violence to life.

This case illustrates that while the lawcode at times gives the right to kill, as discussed in chapter one, there may be situations in which a solution can be arrived at without the termination of life. Hence, the law was applied with the added aspect of reasonableness. It was not necessary to kill Saul in order to spare his own life. David would prefer to stop the hunt, but at the same time, let God deal with

the one who was annointed and set apart to Him.¹¹ It was allowed by law, but not necessarily reasonable, considering the value of a human life, to kill. The intent of the sixth commandment is to place value on life and to minimize unnecessary killing.

A third illustrative case is that of the violent death of Ish-bosheth.¹² The story states that Ish-bosheth; the son of Saul, whose life had recently ended; was at home taking his customary noonday rest. Two of his captains, Baanah and Rechab, evidently with the motivation of gaining favor with the new king, slipped into the room of Ish-bosheth and killed and beheaded him while he was sleeping. Taking his head as a trophy and proof to king David, with hopes that their courage and wisdom in joining the new ruler would be rewarded, they approached David at Hebron. In this situation, since innocent blood had been shed, the law would require the death of the murderers. David would not have the option of solving the problem in any other way for the law demanded the death of the murderers in order to release the innocent man's blood to God. It is useful to note David's pronouncement of justice. He states, ". . . when wicked men have slain a righteous man in his own house upon his bed, shall I not now require his blood at your hand, and destroy you from the earth?" (vs.11). Ish-bosheth had been guilty of no crime worthy of the death penalty, and in that sense, he was legally righteous. Rechab and Baanah, in killing him had shed innocent blood, an act which required, with no room for any other option, that they be put to death. David, in contrast to the earlier case where an option had

been available, carried out the law as king and killed them, thus releasing Ish-bosheth's blood to God and fulfilling the law. Both the letter of the law and the intent of placing a high value on innocent life had been acted upon.

From both the legal theories set forth in earlier chapters and the cases discussed in this chapter, several conclusions can be drawn: It is evident that all life, because it is caused by God, ultimately belongs to God and an account for it is required by God. As a result of this, needless slaying or the taking of innocent life is made illegal, for it is taking lightly the gift that God has given the human race. However, a law without a punishment is not in fact a law but rather becomes an idealistic dream. Thus when life is disregarded and innocent blood is shed, the life of the murderer is terminated in order to stop him or her from further carrying out such a light regard for life. Furthermore, the termination of a murderer makes a significant statement to the community concerning the heinousness of the crime of murder.

Other types of killing, such as self-defense or the death that comes with war were not punishable, but were, at least under ideal conditions, carried out with reasonableness and prudence.

The issue of self-defense, whether it be on the individual level or on the national level, raise the question of the appropriateness of protecting one life by terminating, at least potentially, another life. While war is a topic that deserves separate consideration in another

paper, perhaps a short statement at least would be appropriate here. Defense of life, whether individual or corporate, falls within the scope of the sixth commandment as has already been demonstrated in chapter one. The fact that life is to be protected is not an issue that needs to be further discussed. The necessity of terminating another life in order to protect one's own life is a concept that appears difficult for some to understand. It is interesting to note that in the understanding portrayed in the Old Testament, there was no such hesitancy. This can be seen in the following:

As was discussed in the first chapter, the sixth commandment protected innocent life. Laws and customs of ancient Israel demanded that a murderer be put to death. Furthermore, Ex 22:2,3 suggested that if an individual was a threat to another's life and the threatened person killed the intruder, that killing was justified as protective of innocent life. By being a threat to one's life, the intruder in essence, gave up his own rights of protection for he was not taking seriously the injunction to place a high regard on human life.

In addition to this, it is evident from the words of David in Ps 144:1, that he considers his ability to fight to be a gift from God. It is a fact that this text refers to fighting in battle, but at this point, two things must be kept in mind: (1) God is nevertheless given the credit for David's ability for violence, presumably defensive. (2) The difference between individual self-defense and national defense is not a difference of quality, but of quantity. Defense of one's

community or nation is merely an extension of the principle of defense of one's own life or one's family. The question should not be one of size, but one of cause. Defense, whether it is the defense of one person or several million, is still defense. The question that might be more properly considered when making modern application of the Old Testament views to present situations is the question of whether or not a particular war is a defensive or offensive war. Such a decision is by its very nature, an individual one. The principle of defense can be stated, but the application of that principle remains a personal issue.¹³

The implications of such a study today are many and will undoubtedly vary according to one's interpretations of the facts in their cultural context. It does seem proper to say that at the least, modern followers of Scripture can say, without a doubt, that life has an extremely high value in the eyes of God and that it ought to be protected as far as possible. It seems equally correct to say that not all killing is unjustifiable and/or imprudent. While the New Testament admonishes us to live within the laws set by the State, it is true that if the laws of the State allow or require certain kinds of killing, the follower of God would be unwise to immediately reject such a law, for it is clear that in some cases, to guard the value of an innocent life, one must terminate other life. Godliness does not mean a total absence of violence, it does require, however, a necessary type of violence, carried out with reasonableness and prudence.

Conclusion

What this paper has done was to analyze the sixth commandment on a linguistic basis, and then broaden out to include a study of the contextual setting of that commandment. That law was seen to prohibit only the killing of individuals within the covenant community. This was further qualified by the requirement that the person be innocent of any crime which was punishable by bloodshed. One who had himself shed an innocent person's blood gave up the protection provided by the law. Furthermore, the sixth commandment was seen to include a strongly implied statement concerning the sanctity of human life.

The principles found were then applied to the issues of abortion and suicide in an attempt to gain a broader understanding of the intent of the law. While no definite conclusions were drawn concerning an Old Testament stand on these issues, it was shown that even in these circumstances a high value was placed upon human life.

The paper then applied the written law to several cases in order to determine if the thesis stated above was actually put into practice in Old Testament times. It was demonstrated that the law, both in letter and in spirit, was consistently and accurately carried out.

Endnotes

Chapter One:

¹Most of the older versions of the Scriptures translate Ex 20:13 as "Thou shalt not kill." Others, such as the TEV, attempt to provide a more accurate meaning by changing the wording to "Do not commit murder." Either way is still open to question as to the meaning of the terminology, and neither is entirely true to the connotations, if not the denotation, of the Hebrew, "Lo tarsach."

That there is a problem is often stated, but an in-depth discussion rarely follows. Most commentators are satisfied merely to make a cursory statement concerning the issue. See, Brevard S. Childs, The Book of Exodus: A Critical, Theological Commentary (Philadelphia: The Westminster Press, 1974), pp. 419-421; Hubert Cunliffe-Jones, Deuteronomy Introduction and Commentary (London: SCM Press Limited, 1956); Martin Noth, Exodus, A Commentary (Philadelphia: The Westminster Press, 1962), p. 165.

²For purposes of this paper, the dating of the writing of Exodus is considered to be ca. 15th c. B.C.. This date, as well as the Mosaic authorship of the book was determined according to studies by Gleason L. Archer, Jr., A Survey of Old Testament Introduction (Chicago: Moody Press, 1964), pp. 209-223; R.K. Harrison, Introduction to the Old Testament (Grand Rapids, Michigan: Wm B. Eerdmans Publishing Company, 1969), pp. 174-177, 576-585; Artur Weiser, The Old Testament: Its Formation and Development (New York: Association Press, 1961), pp. 120,121.

³If one were to accept the view that the sixth commandment forbids all killing under any circumstances, then there would be major difficulties in explaining God's actions and instructions where he either personally destroys or commands the slaying of individuals and groups of people, not to mention entire nations. Such a position would put God in a situation where he either must contradict himself and ignore his own laws, or he must be exempt from laws that he asks his creatures to live by. Both options leave much to be desired. The third possibility is that the sixth commandment prohibits a very specific manner of taking life and that other laws and considerations relate to the other types of killing not dealt with by the sixth commandment. This proposal does not encounter the problems raised by the other two views.

⁴The words applying to the slaughter of animals are **זָבַח** zabah, **טָבַח** tabah, and **שָׁחַט** sahat.

⁵לחלל halal is defined as "to pierce with a sword or spear," and in some cases, "to strike with a weapon such as a sword." מות muth can either denote the dying of a natural death or it can mean the suffering of a violent death as a penalty for a crime. נכה nakah places emphasis on the striking, hitting, or beating action. William L. Holladay, A Concise Hebrew and Aramaic Lexicon of the Old Testament, (Grand Rapids, Michigan: Wm B. Eerdmans Publishing Company, 1971), pp. 106,188,237.

⁶The exception to this pattern is found in Gn 4:8, perhaps because of the unusual nature of the "crime" as is discussed later in this paper.

⁷The word is used in the book of Daniel in the following places: 2:13 (two times); 2:14; 3:22; 5:19,30; and 7:11. In all cases it signifies a death caused by an authority figure such as God or an earthly king.

⁸John H. Yoder, "Exodus 20:13 - 'Thou shalt not kill,'" Interpretation 34 (1980):395.

⁹Gerhard von Rad, Deuteronomy: A Commentary, (Philadelphia: The Westminster Press, 1966), pp. 58,59.

¹⁰Childs points out that in the OT, rasah is used only 46 times, as opposed to harag, which is used 165 times, and muth, which is used 201 times. It would seem that rasah is a more precise and limited word. See Brevard S. Childs, The Book of Exodus: A Critical, Theological Commentary, (Philadelphia: The Westminster Press, 1974), p. 419.

¹¹Ibid. p. 420.

¹²J.J. Stamm and M.E. Andrew, The Ten Commandments in Recent Research, (Naperville, Ill.: Alec R. Allenson, Inc., 1967), pp. 98,99.

¹³See Nm 53; Dt 4:41-43; and Js 20. Brevard S. Childs, The Book of Exodus, p. 420.

¹⁴Ibid. p. 421.

¹⁵Ibid. p. 419.

¹⁶See also Gn 4:15; 9:5. John H. Yoder, "Thou shalt not kill," pp. 394,395.

¹⁷Lv 17:10-14.

¹⁸Gn 4:11.

¹⁹Moshe Greenberg, "The Biblical Conception of Asylum," The Journal of Biblical Literature 78 (1959):127,128.

²⁰Nm 35:31-33.

²¹Ex 21:28-32.

²²Moshe Greenberg, "The Biblical Conception of Asylum," p. 128.

²³Ibid., p. 129. See also James B. Pritchard, ed., Ancient Near Eastern Texts Relating to the Old Testament, (New Jersey: Princeton University Press, 1969).

²⁴It is interesting to note that this provision only applies to an ox that has not shown itself to be a gorer. See Henry McKeating, "The Development of the Law on Homicide in Ancient Israel," Vetus Testamentum 25 (1975):56.

²⁵Ibid., pp. 62,63.

²⁶Ibid., p. 57.

²⁷Moshe Greenberg, "The Biblical Conception of Asylum," p. 128.

²⁸Lv 16 and 21.

²⁹Moshe Greenberg, "The Biblical Conception of Asylum," p. 130. See also Ex 28:36.

³⁰Dt 19:1-3.

³¹It is evident that to the early Hebrew mind, the killing of animals was assumed to be reasonable and necessary. Textual evidence shows that it was believed that animals were, at least in part, designed for man's use and consumption. This can be seen from even a cursory

reading of Ex 16:11,12; Lv 11; Dt 12:16,17; and even God is portrayed as taking the life of an animal in order to provide clothes for human beings, thus setting the precedent (Gn 3:21) for man to follow. The concept of self-defense also includes the expectation that it is a natural reaction. There even seems to be an element of surprise when it is not engaged in (Ex 22:2; I S 24:18,19). Violence such as war is also at times condoned, and even on occasion, blessed of God (Gn 14:1-20; Ps 18:34,39,40; 144:1).

Chapter Two:

¹Bruce Waltke, "The Old Testament and Birth Control," Christianity Today, Nov. 8, 1968. Jack W. Cottrell, "Abortion and the Mosaic Law," Christianity Today, March 16, 1973. H. Wayne House, "Miscarriage or Premature Birth: Additional Thoughts on Exodus 21:22-25" The Westminster Theological Journal 41, Fall 1978.

²Bruce Waltke, "The Old Testament and Birth Control," and "Reflections From the Old Testament on Abortion," Journal of the Evangelical Theology Society 19, Winter, 1976, pp. 3-13.

³Bruce Waltke, "The Old Testament and Birth Control," p. 3.

⁴Jack W. Cottrell, "Abortion and the Mosaic Law," pp. 8,9. H. Wayne House, "Miscarriage or Premature Birth," pp. 110-123.

⁵Lex talionis (law of retaliation) means that when a crime has been committed, a punishment of equal nature must be carried out. See Ex 21:23-25; Lv 24:19-21.

⁶Ex 22:33-36; Lv 24:21.

⁷H. Wayne House, "Miscarriage or Premature Birth," pp. 110-112. See also Jack W. Cottrell, "Abortion and the Mosaic Law," p. 8.

⁸Ibid., p. 8.

⁹H. Wayne House, "Miscarriage or Premature Birth," p. 10, footnote 4.

¹⁰Ibid., p. 110.

¹¹Ibid., p. 110.

¹²Ibid., p. 111.

¹³Ibid., p. 111.

¹⁴Ibid., p. 112.

¹⁵Ibid., pp. 122,123.

¹⁶Bruce Waltke, "The Old Testament and Birth Control," p. 3.

¹⁷Jack W. Cottrell, "Abortion and the Mosaic Law," p. 7.

¹⁸Ibid., p. 7.

¹⁹Carnation Company, Pregnancy in Anatomical Illustrations, (Carnation Company, 1965), p. 17. Nicholson J. Eastman and Keith P. Russell, Expectant Motherhood, 5th ed., rev. (Boston: Little, Brown and Company, 1970), pp. 37-39. Margaret F. Myles, Textbook for Midwives with Modern Concepts of Obstetric and Neonatal Care, 8th ed., (New York: Churchill Livingstone, 1975), p. 39.

²⁰H. Wayne House, "Miscarriage or Premature Birth," p. 110.

²¹Ibid., p. 117 footnote 26.

Chapter Three:

¹I S 31:1-3; II S 1:1-27.

²cf. I K 22:35-37.

³II S 1:19-27.

Chapter Four:

¹Gn 4:1-16.

²Gn 4:8.

³Gn 4:16; see margin in RSV.

⁴Gn 4:15

⁵Note that the next mention of personal violence is not until Gn 6:13. It is a general statement about the population as a whole, and their violence receives a general punishment as well. Needless to say, this time the punishment is more severe than it was in the case of Cain.

⁶II S 14:8,9.

⁷I S 18:8-12,29; 20:30-33.

⁸I S 22:2 describes David's army as numbering about 400 men. I S 27:2 numbers his army at about 600 men. In contrast, I S 24:2 indicates that Saul pursued David with 3000 men.

⁹I S 24:18.

¹⁰It would appear that Saul was not considered to be a real part of the covenant community in the eyes of the Biblical authors even though he remained king for some time. Saul had been rebuked by God through Samuel and God had taken the kingdom away from Saul. Evidence indicates that even on a personal level, in addition to the factor of kingship, God had withdrawn and left Saul as one outside of the covenant. See I S 15:23,26,35; 16:1,12-14.

¹¹I S 24:6,10; 26:9-11,23.

¹²II S 4.

¹³The Scriptures demand that one protect and take care of his brother. If one accepts that, then one must also protect the wider circle of "brothers" from the invader. This wider circle may include, in concentric levels: family, friends, community, country. If one argues that he/she cannot by conscience do so, then there are two considerations that must be thought of:

1. Is it moral and ethical to impose one's own view, perhaps presumptuously, upon another individual at the expense of the person's safety and life?
2. If one cannot by conscience fight a defensive war, then some things are required for consistency.
 - a. The individual must not ask other individuals to defend him or her. Police and military cannot be asked to give aid, for there is no moral or ethical difference between defending one's self or asking someone else, police or military, to take up weapons in their stead.
 - b. The conscious individual must also refuse to pay the

portion of taxes which support military and law enforcement, for the paying of taxes is an ipso facto request for these services.

- c. The individual must in no way take part in the military organization, including 1-A-0 status, for this is an indirect, but nevertheless real support of military action.
- d. The individual must not take the position that law and order are necessary, for law and order, by its very existence, requires enforcement by someone in order to be more than an idealistic opinion. If it is not enforced or supported by the individual, it ceases, in fact, to exist as law and order and becomes, at best, an unrealistic vision.

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