

# Deuteronomy 25:1–3

<https://thebiblesays.com/commentary/deut/deut-25/deuteronomy-251-3/>

*Moses instructs the Israelites on how to administer legal justice in the land. This law limits the number of lashes to be given to a criminal to forty.*

Moses then continued the exposition of not bearing false witness against a neighbor (the ninth commandment) by describing a situation where *there is a dispute between men and they go to court* (v. 1). In this example, the dispute must have been one that the *men* could not resolve by themselves. So, as was appropriate, they took their case to court to let *the judges decide their case*. The result of the judges' decision was to be that *they justify the righteous and condemn the wicked*.

God set up Israel as a self-governing nation based on rule of law, private property, and consent of the governed. The principle of the consent of the governed is inherent in God's covenant with Israel, in that He left it up to them whether or not to obey His laws. They would bear the consequences of their decision, but God left the decision to them concerning what path to follow (Deuteronomy 30:19-20). God delegated to Israel to appoint their own judges, putting into their hands responsibility to see justice done (Deuteronomy 16:18). God gave instructions as to the qualification judges ought to have, to ensure that they would be impartial, dispensing justice regardless of circumstances or stations of life (Deuteronomy 16:18-20).

Legal matters that could not be resolved between the parties involved were often brought to the judicial system (to the courtroom) where judges would hear the testimony of each party and then determine who was in the right and who was in the wrong. Moses commented that the Israelite judges would hear a *dispute between the men and justify the righteous and condemn the wicked*. Once the judge had heard all the evidence, he would apply the appropriate punishment to the *wicked man* (guilty man). So, *if the wicked man deserves to be beaten, the judge shall then make him lie down and be beaten* (v. 2).

In ancient times, flogging—a punishment in which the guilty person is hit repeatedly with a rod—was one of the means through which workers and children were disciplined. In our context, the judge would have someone beat

the guilty man to discipline him for the wrong he had done to his brother. But this was to be done *in the presence* of the judge to ensure the penalty was implemented exactly as required by the law. So, the *wicked* was to be beaten *with the number of stripes according to his guilt*. The severity of the offense would determine the appropriate *number of stripes* to be given to the guilty man.

However, regardless of the severity of the offense, the flogger *may beat* the guilty man *forty times but no more* (v. 3). In Israel, there was no such thing as flogging a person (who was an Israelite brother) more than what was appropriate. Those dealing out the punishment needed to be careful in order *that he does not beat him with many more stripes than these*. The Old Testament law sets *forty* as the absolute maximum of stripes an offender could receive. While it could be less, it could be *no more*. For this reason, someone was to count to make sure the flogger did not beat the *guilty man* with more than *forty strikes*. This was to be done so that their *brother is not degraded in your eyes*. In other words, to exceed the forty-strike limit would be to humiliate or dishonor the man who was made as God's image.

This law was provided to protect the dignity of the offender because, after all, he was a fellow Israelite, He was not to be *degraded* in his brother's eyes. His punishment was to be in proportion to his crime. To give him more than *forty* strokes would be to inflict a punishment beyond his crime.

The present law seeks to illustrate the extent of punishment to be inflicted to individuals committing noncapital crimes in Israel. The case presented was probably one of many that could have been offered. But this one was enough to show Moses's intent, namely to ensure that every Israelite was treated with dignity and respect in the land the Suzerain (Ruler) God was about to give them. By having a public flogging that was proportional to the crime, not too much to bear, and not to the point of humiliation, the offender could be restored to the community with justice having been served. The punishment was swift and humane, then the person had full opportunity to return to a productive life.

Interestingly, during the New Testament times, the number of stripes was set to thirty-nine lashes. Paul said that "five times I received from the Jews thirty-nine lashes" ([2 Corinthians 11:24](#)). It is likely that the number *thirty-nine* was set (instead of forty) to ensure the number *forty* given in the Old Testament law was not violated. The irony of course is that the Jews who flogged Paul

were meticulously following this law while breaking much weightier laws, the laws of justice, mercy, and faith (Matthew 23:23).

**Biblical Text:**

**<sup>1</sup>If there is a dispute between men and they go to court, and the judges decide their case, and they justify the righteous and condemn the wicked, <sup>2</sup>then it shall be if the wicked man deserves to be beaten, the judge shall then make him lie down and be beaten in his presence with the number of stripes according to his guilt. <sup>3</sup>He may beat him forty times *but* no more, so that he does not beat him with many more stripes than these and your brother is not degraded in your eyes.**