



## The death penalty in God's Law

Recently it was announced that four Caribbean countries are about to reintroduce the death penalty. In the Netherlands more than half the population is also in favour of bringing it back. These are positive developments, especially when it becomes increasingly clear that the death penalty is a Biblical teaching. Still, many people are left with questions. What exactly does the Bible say about this subject?

In Romans 12:19 the apostle Paul says: *"Never take your own revenge, beloved, but leave room for the wrath of God, for it is written, 'VENGEANCE IS MINE, I WILL REPAY,' says the Lord."*

He is quoting from Deuteronomy 32:35. In chapter 13 of this letter to the Romans Paul explains (among other things) how the Lord uses the governing authorities to punish evildoers. Paul says, *"For there is no authority except from God, and those which exist are established by God."*

He applies this by warning that people in authority punish evil on God's behalf, and puts it even stronger when he says that the governing authority is *"a minister of God, an avenger who brings wrath upon the one who practices evil."* (Romans 13:4).

There are two important points to note here.

1. The Bible indicates that every governing authority serves on God's behalf. Just like in most present day nations, so also in Paul's days, the Romans would not have realised this fact. But even a non-Christian authority is, without its knowledge, appointed to the service of God to avenge evil. The crux of the matter is that on the last day God will require an account from every governing authority: Have you followed my command to withstand evil or have you allowed it to continue? It is clear that the government of many a nation will be dumb-founded. Just consider the drug trade and the prostitution that continues. Or think of the murder of so many unborn children. Not to mention the promotion of homosexuality as an alternate lifestyle.
2. The task of our present day governments (and their justice systems) is to avenge evil on God's behalf. God has placed governing authorities in this world, in the first place, to execute His wrath against evil. That is their primary task.

Why? Because in the Bible punishment always has to do with restitution or compensation for the harm done by a crime. Whenever an evil deed has been done, someone has been disadvantaged. This disadvantage must be recompensed by means of the punishment. The punishment must be of equal worth to the deed that caused the injury. This is pictured by the two scales seen in the left hand of Lady Justice. An evil deed brings the scale out of balance. An appropriate punishment must return the scale to the balanced position. Appropriate punishment is not always the return of what, for example, has been stolen. There was also the disadvantage and concern induced by the act itself, not to mention any other potential consequences. It is for this reason that the Lord commands that a thief repay double of what he has stolen (Exodus 22:7). The return of that which was stolen along with a 100% fine is the vengeance, the compensation which the Lord requires for the victim. Such a fine would, then, not be paid to the authorities, but to the victim himself. He is the one injured by the wrong that was done. That is putting things right!

This principle forms the background for the Biblical expression: *An eye for an eye, a tooth for a tooth* (Deuteronomy 19:21). In other words, each sinful deed must receive an equally fitting punishment. This is a rule with a judicial context. That's why the Lord Jesus turned so sharply

against the Pharisees when they used this rule as an excuse to justify personal revenge (Matthew 5:38-39).

Now it is true that this demand (an eye for an eye) and the principle of restitution does mean that when a victim loses a body part, he may demand that the perpetrator's same body part be removed as punishment. If your neighbour plucks out your right eye, then, according to God's law, you may demand from the judge that his right eye also be removed (Leviticus 24:19-20; Exodus 21:23-25). Although this sounds horrible, we should understand that in practice it very seldom happened.

Why not? Even though the principle of applying this type of punishment remains, the Lord gives the victim the alternative of exchanging the literal vengeance with a fine (cf. Josephus *Antiquities of the Jews* 4.280). In other words, instead of demanding the right eye of the perpetrator, the victim may demand a financial penalty. Of course, the victim will benefit much more from a fine (which he receives – not the government) than the right eye of the perpetrator – there's not much he can do with that!

The gospel is also based on these same principles. All of what I have said to this point touches the core of the message of the Bible. God is perfectly righteous and concerns Himself with setting evil right. An appropriate punishment must follow wrongdoing. That also applies to the gospel. On the last day when God will appear as judge of this world He will not be able to excuse sin. He, too, must avenge all sin against His holiness. The only way to avoid His punishment is to ask Jesus Christ to accept that punishment on our behalf. And that's what He has done in His crucifixion. By placing faith in Him we may exchange our guilt with His innocence. He pays for our sins. He carries the burden of God's vengeance against our sins.

The principles that God has instituted for dealing with social evils are precisely the same as those in effect with the message of the gospel. When we lose sight of the one, eventually we will not be able to see the other either.

How we view restitution in society will have a direct impact on how we view the gospel.

### **Substitution for the death penalty in God's Law**

Although the Bible contains only a few instances where it speaks directly about substitution of a fine for the literal punishment meted out, there are many indirect references concerning this. (We shouldn't forget that the Pentateuch only contains a selection of the laws which God revealed to Moses.)

The possibility of converting a punishment into a fine also exists for certain capital crimes in God's law. In Exodus 21:29ff we read that if the owner of an ox that is known to be dangerous does not guard it properly, and the ox kills someone, then the ox must be put to death and the owner also receives the death sentence. But then, in verse 30 we read: *If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him.*

The defendant (the nearest of kin to the victim) may demand, instead of the death penalty, a monetary fine.

From the book of Proverbs we learn that the same possibility of substitution exists for adultery. The prescribed punishment for adultery is the death penalty (Leviticus 20:10; Deuteronomy 22:22). Proverbs 6:32-35 (cf. 13:7-8) warns us that the plaintiff (the injured marriage partner) in an adultery charge could become so angry that he would not even be prepared to consider a fine in place of the death penalty. We see that the right to insist on having the official sentence executed remains with the plaintiff.<sup>1</sup>

*The one who commits adultery with a woman is lacking sense; He who would destroy himself does it... For jealousy enrages a man, and he will not spare in the day of vengeance*

(i.e. at court). *He will not accept any ransom, nor will he be content though you give many gifts* (i.e., even if you offer him a fortune as redemption).

Still, there are also some crimes for which the Lord says no redemption-money may be accepted. We read in Numbers 35:31ff:

*Moreover, you shall not take ransom for the life of a murderer who is guilty of death, but he shall surely be put to death. And you shall not take ransom for him who has fled to his city of refuge, that he may return to live in the land before the death of the priest. So you shall not pollute the land in which you are; for blood pollutes the land and no expiation can be made for the land for the blood that is shed on it, except by the blood of him who shed it.*

It is important to note the context here. God's law makes a distinction between premeditated murder and accidental manslaughter. Numbers 35:22ff indicates that when a murder occurs by accident the perpetrator may flee to a designated city of refuge and remain there until the death of the High Priest. Premeditated murder must be punished with the death penalty.

The question comes to mind why the punishment here may not be substituted for a fine. Could it have something to do with the fact that man is created in the image of God? The honour of God Himself is assaulted by the act of murder. His image is destroyed. This consideration is particularly clear at the institution of the death penalty for murder in Genesis 9:6. *Whoever sheds man's blood, by man his blood shall be shed, for in the image of God He made man.*

Were there also other crimes for which the death penalty was compulsory? Considering that it was left to the accuser (or plaintiff) to choose for a substitutionary fine or not, we may conclude that where there is no direct plaintiff the prescribed punishment must be executed. This would certainly be the case for crimes in which God Himself is the plaintiff, i.e. crimes which are many committed against God such as idolatry (Deuteronomy 13; Leviticus 20:2); public blasphemy (Leviticus 24:10ff; cf. Heidelberg Catechism Q/A 100); witchcraft (Leviticus 20:6, 27; Exodus 22:18) and working on the Sabbath (Exodus 31:15).

Consideration of such deeds as crimes will, of course, only take place where society is clearly Christian.

The question may also be asked whether it is wise to promote the death penalty in a non-Christian society. Wouldn't that incur risks? A non-Christian justice system could easily misuse such a punishment. The simple answer of the apostle Paul is that such an argument did not hold enough weight over against the principle of restitution that the Lord Himself has given, a principle that necessarily includes the execution of the death penalty. In Romans 13:4, after Paul has explained that all authorities are instituted by God to execute His wrath, His vengeance over evil, he says... *But if you do what is evil, be afraid; for it does not bear the sword for nothing; for it is a minister of God, an avenger who brings wrath upon the one who practices evil.*

In olden days (as well as today) the sword was the symbol for the execution of justice, up to and including the most severe punishment, the death penalty (for which the sword was needed). For this reason Lady Justice does not only carry the scales in her left hand but also a sword in her right hand.

As with everything, so also with the death penalty, misuse can still occur. On the last day judges will also have to give account for this to the Lord. But that does not prevent Paul from stating that heathen rulers also carry the responsibility of making proper use of the death penalty. Don't forget that, in the end, Paul was also (unjustly) sentenced to death by the Roman authorities.

### **The death penalty and forgiveness**

As a Christian judge, how would you have to deal with a criminal who not only confesses to murder but also asks for forgiveness? This argument is often used, not only to oppose the death penalty,

but actually – when you think about it – to oppose all social punishment in cases of penitence and request for forgiveness. The problem becomes critical in the case of the death penalty because the life of the penitent criminal will be taken; while, if his sorrow is real, the danger to society has disappeared.

The chink in the armour of this argument lies in that last sentence. Biblical punishment is not primarily focused on removing danger from society. That is, indeed, the fundamental idea behind our modern day system of imprisonment. We throw the criminals behind bars. It makes us feel safer. But, as we have seen above, the Bible is interested in restitution. Crime is punished in order to recompense the victim for his damages. That is Biblical retribution.

The Lord expects that along with true sorrow for sin, the desire will arise to set things right. Restitution belongs with the request for forgiveness. The one can not exist without the other. For this reason the Lord commanded that restitution had to be made before someone could bring a guilt offering in the temple in order to receive forgiveness for a sin committed against someone's property (Leviticus 6:1-7). Only after restitution was made (in this case with an additional 20% fine for perjury) was the wrongdoer permitted to go to the temple to ask for forgiveness (Leviticus 6:5). Payment of the lawfully demanded restitution is a prerequisite for forgiveness from the Lord.

That principle remains valid for us today. Before we dare to approach our Lord for forgiveness we must have gone to our neighbour to restore the breach our sin has caused. This general principle must also be applied in specific cases where the judge has issued a particular sentence. We may not just go to the Lord and ask for forgiveness without setting the matter right by accepting our punishment. It is true that we no longer need an intermediary priest or sacrificial animal. When we seek forgiveness we pray to God directly by way of our mediator and high priest, Jesus Christ. He is, at the same time, our sacrificial lamb. He has died for our sins, being sacrificed on the cross. But the principle remains in force: First restore the relationship with our neighbour that our sin has spoiled, only then pray for forgiveness.

This principle must also be applied when the restoration for our sin demands the death penalty. That's why Paul could declare to the judge: *If then I am a wrongdoer, and have committed anything worthy of death, I do not refuse to die.* (Acts 25:11a)

If the death penalty is correctly demanded against us then we shall (as difficult as it might be) accept this punishment as God's required restitution for our sin. We will be able to do that because we know that in Jesus Christ there is also forgiveness. In such a case we will receive that forgiveness by handing over our earthly life in accordance with God's law. And that forgiveness means that our Lord will receive our soul and assure us of the promise of everlasting life with Him in glory.

These principles also mean that if we were ever to fall into sin by committing a capital crime (according to God's law), we would, in faith, be prepared to accept the consequences. If our society demands a different (lighter) sentence, then we will still realise that God has demanded something more severe. In faith there should arise within us a deep awareness of the seriousness of our crime in God's eyes, and the willingness, should we be in different circumstances, to accept His punishment. At the same time we may thank Him abundantly that He, in the given circumstances, has set us free from the punishment required in His law. That should lead to an even more humble attitude toward Him, and a zealous desire to henceforth serve Him with all our heart and soul.

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<sup>1</sup> This also helps us to understand Joseph's initial reaction to the pregnancy of Mary. He was well within his rights to choose not to press for the death penalty, but to quietly arrange for a divorce instead, Matthew 1:19.