

Crime & Justice

- what does it really mean to 'put things right'?

THE CONTEXT: GOD'S VISION FOR HUMANS IN SOCIETY

God's character is one of justice and shalom

The Bible presents a God who loves the world, whose concern is creation encompassing. It uses words 'justice' and 'shalom' to describe this social vision. Not in conflict; complementary; aspects of the same reality, which is a social expression of the character of God.

Samples of justice

We have already explored the vision of the "God of *Shalom*"

- **Psalm 103.6:** introduces two biblical words for justice, *sedekah* (Gk *dikaiosune*) and 'mishpat' (Gk *krima*), which recur frequently in Bible. Observations:
 - God is active; working for these; human justice is a grateful extension of God's justice;
 - Terms are relational and concrete, not abstract;
 - Justice is partisan to the weak, compassionate;
 - Best translation of *sedekah*: "what makes right".
- **Micah 6.1-6:**
 - Remember (6:5): the liberation of slaves (6:4), the journey to the promised land (6:5);
 - These acts are the *justice* (*sedekah*) of God: "righteous acts" (NIV); "what I did in order to save you" (TEV);
 - Wrong response to God's just acts: elaborate worship (6:6-7);
 - Right response (6.8): to "*act justly*, to love mercy, and to walk humbly with your God." God has treated his people with liberating justice; pass it on!
- **Matthew 23.23:** Jesus' paraphrase of Micah 6.8: urges not elaborate religiosity [tithing], but the "more important matters of the law--justice, mercy and faithfulness." Jesus emphasises a lifestyle of active liberation--treating other people like God, through his Son, has treated them.

CRIME AND PUNISHMENT: THE HEBREW SCRIPTURES

The Torah: God's gracious gift

The Torah is not a set of prohibitions but a guideline for the life of a just community; a "wise indicator" (Martin Buber), to enable people to live together in right relationships, in communal *shalom*.



Procedure

Things will go wrong; disputes; offences. God established means of dealing with these; God makes things right.

- **Exodus 18.13-26:** lots of conflicts/disputes; Moses becoming exhausted; needed help:
 - **18.15:** people have come to seek God's will;
 - **18.20:** Moses must teach them God's decrees and laws and show them "the way to live" together;
 - **18.23:** result - "all these people will go home in shalom"; not adversarial [50 per cent of them satisfied]. Out of justice comes welfare for everyone, reparation, rightness, reconciliation.
- **Agents of justice:** judge(s); elders at the gate; king; courts. All aimed less at punishment (although that could be a part) than at restoration of justice = right relationships.

Sanctions, including punishment

Torah takes violation of relationships (crime) seriously. There was a concern for victims [emphasis upon reparations]; there was concern also for offenders (takes violation seriously enough to prescribe punishment which involves repentant, restorative action leading to just relationships):

- **No prisons:** came in later, with royalty;
- **Reparations:** Exodus 22: "Protection of Property" (NIV section title) does not do justice to this chapter; "Victim-offender Reconciliation" would be better. The offender suffers, is punished, by making restitution: 22:1, 4, 5, 6, 7, etc. In this, the punishment fits the crime, i.e. is of the same kind as the crime;
- **Capital punishment:** 26 capital crimes in various law codes: for e.g. murder (Ex 21:12), an incorrigible son (Dt 21:18ff), false prophecy (Dt 13:1ff), adultery (Lev 20:10), sex with an animal (Ex 22:19), keeping a dangerous ox (Ex 21:29). Under the Torah, these punishments kept the community holy by removing violator of purity;
- **God's punishment:** of individual; of nation (Lev 26:14-39).

Motives

These are not clearly stated:

- **Deterrence:** mentioned three times, all in Deuteronomy (13:11; 17:13; 21:18-21); so that others will see, be afraid, and not do it;
- **Reparation to victim:** a major emphasis in the Torah, which is concerned for the welfare of the victim;
- **Correction and restoration of offender:** a repeated concern; that the victim and the offender can live together in shalom;
- **A just society:** a community living in right relationships and *shalom* - always the goal;
- **Retribution:** inflicting loss and suffering on the one who has caused loss and suffering to others (see below under the Noachic Covenant (Gen 9:6) and the "Lex Talionis").



CRIME AND PUNISHMENT: THE CHRISTIAN SCRIPTURES

Jesus: the “Just One” (Acts 3:15; 7:52)

- **Fulfilment of Messianic prophecy:** ‘sedekah’ his belt, ‘mishpat’ his loincloth (Isa 11:5), founding a people living in reconciliation (wolf with lamb, no hurting or destroying; Is 11:6-9);
- **The perfect demonstration of the meaning of *justice*:** Jesus lived justly, hungered and thirsted for justice, effected justice; justice = Jesus;
- **Taught justice:** God’s kingdom *is justice* [Mt 6:33]; justice is related to mercy, forgiveness, restoration of relationships (Mt 18:21-35);
- **Penetration of motive:** Jesus saw through the injustice of the “just”, saw the potential justice of “sinners” (Lk 18:9-14; Jn 8:1-11);
- **The Cross:** Jesus was persecuted for Justice and for the kingdom. Jewish justice (the justice of the Law) worked with Roman justice (famous for its sophistication) to put Jesus to death (Col 2.14-15). *The Cross:*
 - Symbol of human justice/injustice, making things wrong;
 - Symbol/instrument of God's justice, making things right.

The early church: a just community

The early church was the product of the resurrected Jesus’ breathing of the Holy Spirit upon his followers. They, like their Master, had a priority on restoring relationships: -

- **Settling disputes:** Jesus had set out a way of doing this within the community (Mt 18:15-17); the early Christians did this, both with sexual offences (2Cor 2:6-8) and with disputes among members (1Cor 6). Christians were not to take conflicts to the civil courts (“the unjust” - 6:1), “those of little account” (6:4). Being wronged is better than being vindicated in a civil court. Winning was not the point; restoration of relationships was the point. The only punishment that the congregation exercised was exclusion (“the punishment inflicted by the majority”; 2Cor 2:6) and was an expression of love aiming at reconciliation.
- **Economic justice:** the early Christians had mechanisms for working towards equality and enoughness (2Cor 8; 1Jn 3.16-18), which foster right relationships.
- **Punishment:**
 - By community: excommunication (see above);
 - By parents, leading to “the peaceful fruit of justice” (Heb 12.7-11);
 - By God: through consequences of sin (Rm 1:24), through suffering now (1Cor 11:30) and in eternity (Mt 25:46).

Pagan justice

Pagan justice is revealed as unjust, for it crucified the Messiah (1Cor 2:8); but is there, a “servant” of God in his lordship of history (Rm 13:4), and exercising “the sword” as punishment (cf Jer 25:9, 38).



CAPITAL PUNISHMENT

This is a controverted topic, especially in the US. **Independent** (22-4-92), photo on first page of Americans exulting in gassing of Robert Alton Harris: two men, one wearing T-shirt “Gas Kills Harris Dead”, the other carrying a placard, “Capital Punishment YES, Genesis 9.6”. The debate is civil, but also heavily religious.

Pro-capital punishment ¹

- **Hebrew Law enjoined capital punishment:** House lists many examples. God, who orders capital punishment, cannot be against it now, for God does not change.
- **The New Testament permits capital punishment:** Jesus, in the John 8.1-11 adultery case, could have argued against the death penalty for adultery but didn't; Paul, in Romans 13.1-7, recognises that the duly constituted authorities bear the sword (the death penalty); and Peter, in 1 Pet 2.14, states that the authorities, at God's command, “punish those who do wrong.”
- **The four motives** (as evaluated by House):
 - **Deterrence of crime**, important though secondary;
 - **Protection of society**, important though secondary;
 - **Rehabilitation of criminals**, relatively unimportant;
 - **Retribution**, with every evil act meriting a previously determined recompense, is all-important.
- **The Noah Covenant (Gen 9:6):** the heart of the case. God established an order, after the flood, at the outset of a new era in human history:

Whoever sheds the blood of a human,
by a human shall that person's blood be shed,
for in his own image
God made humankind.

- **This is universal**, not simply for the Jews. Noah was not a Hebrew but a generic human being. Pro-capital punishment advocates debate about the ongoing validity of the Mosaic law. Some see it as perpetually binding; others, such as House, see it as being abrogated with Jesus (e.g., after Jesus there should not be the death penalty for cursing parents). But the Noachic covenant still applies after Jesus. Capital punishment is therefore a proper course of action for governments carrying out their God-given mandate to punish evil. Gen 9.6 is an apodictic law applying forever.
- **This protects the dignity of humans.** “Capital punishment is based upon the unique value of individual human beings because they bear the image of God” (House, 56). For two reasons:

¹ H. Wayne House, an American Baptist with doctorates in Theology and Law: ‘The Death Penalty Debate’, Word Publishing, 1991.



- **The image:** humans, bearing the image of God, are to respect this image in other humans; when they do not, murdering another human, they attack the God whom they image:

“Capital punishment was established by the image-Giver to protect the dignity of the image-bearers. Wilful elimination of the expression of God's image from one individual by another (premeditated murder) merited the penalty of execution, i.e., the elimination of the expression of God's image from the murderer. There was no conflict between capital punishment and the *imago Dei*. Indeed, the former depends upon the latter” (House, 73).

- **Responsibility:** God respects the dignity of humans by making them responsible for their decisions. Crime, as C.S. Lewis argued, is not a disease; it is a decision. People will be dehumanised if they do not take responsibility for what they do.
- **Effectiveness is not the point** where divine revelation is concerned. Whether or not it deters murder, *the death penalty is right*. And if it seems not to deter, according to the American Dr House, “this apparent failing must be measured against the lack of a swift, consistent application of capital punishment” (p 88).

Anti-capital punishment ²

Genesis 9.1-7: death penalty advocates misread this:

- **This is poetry:** Gen 9.6 is not law, but Hebrew poetry [see the way it is rendered in NIV, NRSV, etc]
- **This is descriptive:** Gen 9.6 is not legislation, but a description of *how things are* in a primitive society. If 9.6 indicates God's invariable will, why did he intervene to protect Cain, who had slain his brother Abel [Gen 4.13ff]? Yahweh's protection of Cain is his characteristic action; an escalation of vengeful violence (Lamech, in Gen 4.23-24) is the characteristic human action.
- **This is non-governmental:** Gen 9.6 is not carried out by government, but by the 'goel', the avenger of blood; its connection with state executions is distant
- **The context is ritual sacrifice:** Gen 9.6 is in the context of God's ownership of all, animals and humans. 9:3-4: animals may be killed and eaten, but not with their blood, which is to be given to God in *sacrifice*. 9:5-6: humans may not be killed. If they are, the offence is cosmic, against the order of things, and must expiated by the forfeiting of the life of the killer. For every human death, blood must flow, thereby safeguarding the cosmic order.
- **There must be no exceptions:** if Gen 9:6 were to be taken as invariable law, there could be no exceptions, not for accidental killing, not for a mentally handicapped person, not for a doctor in medical malpractice. (And 9:4 would rule out eating rare steak!)
- **Genesis 9.6 is not God's last word:** the New Testament fulfils the Old. The ceremonial and ritual requirements of the Hebrew Scriptures find their fulfilment in the

² American Mennonite theologian John Howard Yoder, author of 'The Politics of Jesus' and co-author of 'The Death Penalty Debate'



high-priestly sacrifice of Christ (Heb 9:26-28). In Jesus Christ, through the Cross, Christians have entered into a new era in salvation history.

▪ **Other Hebrew Scripture passages:**

- **The Law:** prescribing death penalty for 26 offences; this was already being softened by the time of the prophets. Nathan, in the case of David / Uriah / Bathsheba (adultery, murder), did not prescribe capital punishment for David (2 Sam 12).
- **The Lex Talionis** ('law of retaliation') (Ex 21.24-27; Lev 24.19-22; Dt 19.19-21): is not emphasised; it occurs obliquely in passages discussing other points, and may be a remembered pre-Mosaic rule of thumb. Retaliation in the rest of the Law does not seem to be based on this. In any event, it limits retaliation to the size of the injury caused; and it rules out Lamech-like vengeance (Gen 4.23).

▪ **Jesus:**

- **Fulfils and radicalises the Law:** the Sermon on the Mount, which brings out the intention of the Law, rejects the Lex Talionis (Mt 5:38ff). According to Paul, the Law reaches its goal in Jesus (Rm 10:4).
- **Encounters the adulteress and the would-be executioners** (Jn 8:1-11): Jesus did not declare on capital punishment explicitly, but his points would render it almost impossible. He challenges the self-satisfied righteousness of those who claimed the right to kill; he applies to the woman's capital crime [according to the Torah] his authority to forgive. "Go and sin no more."
- **Jesus is 'Lord':** this is a political title, which is legitimately his, not Caesar's, and his Lordship over all establishes patterns of behaviour that apply even in the civic realm. Jesus, as Lord, came not to destroy but to save.

▪ **The Cross:**

- **The supreme example of the injustice of the death penalty :** the Cross has "made a public example of the principalities and powers" (Col 2:15). By imposing the death penalty on Jesus, "the claimants to human righteousness refuted their claim for the rightness of the death penalty in the very act of imposing it."
 - **The way God makes things right** (Col 1.20): "The Maker and Model willingly became the victim, bearing all human retribution, whether merited or not, dying the death earned not only by the murderer but by all of us" (Yoder, 160). John 11.50; 18.14.
- **Romans 13.1-7.** Paul is not here declaring on the death penalty but on the authorities' calling to preserve justice. The "sword" (Gk 'machaira') was the short sword, the symbol of government, but not the means either of capital punishment or of warfare.
- **The Early Church opposed all killing.** Early Christian pronouncements are in keeping with an anti-retaliatory, "pro-life" reading of the Bible. They rejected all forms of killing-- in the army, in abortion, in lethal sports: "We cannot endure to see a man being put to death even justly . . . we see little difference between watching a man being put to death and killing him . . . we are altogether consistent in our conduct" (Athenagoras, 'Plea for the Christians', 35, 180 CE).



- **What is the motive--retribution or revenge?** The aim, at times expressly put, of advocates of the death penalty is not judicial balance but anger and revenge. E.g., Ernest van den Haag: anger is “an emotion universally felt . . . which all societies must gratify.” Is it universal? Even among Jesus’ disciples? Is it the job of governments to gratify “universal” human emotions?
- **Does capital punishment really deter?** There is simply no evidence that the death penalty cuts murder; if so, there should be more murder in the UK, where the death penalty has not been imposed for many years, than in the USA, where capital punishment has been widely practised since its reinstatement in 1976.
- **Do mistakes happen?** Times (12.5.92) cartoon: a judge pronounces, “I sentence you to prison until such time as you are declared innocent.” Studies in the USA have discovered that between 2 and 5 per cent of death sentences have represented incorrect verdicts; in England, the recent revoking of the sentences of the Guildford Four, etc., have introduced a new sobriety about the fallibility of English justice. Where the state kills unjustly it is guilty of murder. If Gen 9:6 applies mechanically, who will accept the “life for life” retribution for judicial murder?
- **Capital punishment does not “make things right”** and as such it does not meet the basic criterion of Biblical justice. Capital punishment punishes in such a way that relationships cannot be restored, reparations cannot be made; it thus short-circuits what Biblical justice is all about.
- **The overall direction of God’s work in history:** God is not “changeless”; God is consistently at work, moving always in the same direction. The meaning of his historical work is revealed perfectly in Jesus. But there is room for subsequent movement of Jesus-like change, in keeping with Jesus and the New Covenant. E.g., since Jesus’ time *slaves have been emancipated* in ways unimagined in the first century; since Jesus’ time societies have realised that *discrimination on the basis of race and sex* is unjust. So also, since Jesus’ time *capital punishment has been restricted* in more and more societies [most recently, in the ex-communist societies of Eastern Europe]. Jesus and the gospel must always judge these social-political developments; but Yoder argues that they could be seen as an example of what H.R. Niebuhr has called “Christ transforming culture.”

JUSTICE-MAKING TODAY

Criminal justice system in trouble

- **An Adversarial Legal System:** plaintiffs vs defendants; innocents vs criminals; winners vs losers.
- **Prisons are fuller than ever:** the offender is punished, but not in such a way as to rehabilitate the offender or to be able to make reparation to the person whom he/she has violated.
- **Victims are not taken seriously:** the crime of the offender is against the state, not against the victim. The victim is left in insecurity and doubt about why the crime was committed.



- **Justice is operating, but not in the biblical sense:** *-that which makes right.* Biblical justice restores relationships; the criminal justice system today segregates the aggrieved parties.

Imagining other approaches to justice

What if Christians, pondering the Biblical revelation and the way of Jesus, thought some new thoughts? *Our society emphasises justice and spends a lot on it; but it's not working well because it's got the wrong idea of justice.* What would it be like if we based our actions on the biblical definitions?

- Justice = right relationships
- Justice-making = making things right

Not everything would change: there is still some room for *punishment*, including *prisons* (although their character may change).

But what would things be like if Christians worked for a legal system that went *beyond an adversarial approach* to justice, beyond win/lose? God wants Christians to be involved in society, not just to do customary things in an honest and pious way, but *in order to do new things*.

New Things: some illustrations

- **Victim-Offender Reconciliation Programme (VORP):**
 - Begun in Canada by Mennonite Christians in 1968;
 - Aim of obtaining reparation to the victim, confession and restitution by the offender;
 - If possible, meeting of victim with offender, with the aim of reparation and reconciliation;
 - If possible, keeping offender out of prison, where things rarely get better;
 - Scheme has spread widely throughout the US and Canada;
 - Ideas introduced in the UK in mid-1980s, with probation officers and Home Office officials visiting Mennonite VORP practitioners to watch them in operation;
 - UK probation officers begin programmes of victim and offender mediation. For information, write Leeds Mediation and Reparation Service, Devonshire House, 38 York Place, Leeds LS1 2ED; they also can provide a 'Victim and Offender Mediation Handbook', as well as reports giving case studies;
 - 'Mediation', published by Mediation UK, 82A Gloucester Road, Bishopston, Bristol BS7 8BN;
 - A good introduction: Howard Zehr, 'Changing Lenses: A New Focus for Crime and Justice' (Herald Press, 1990).
- **Development of skills in mediation:** settle disputes out of court, defusing violence. Mohawk Indians, in 1990 crisis at Oka, Quebec: "Get us the United Nations or get us the Mennonites!" What if Christians were known as people who could be trusted to listen fairly, to sympathise with the disadvantaged as well as the strong? What if they saw a specific social mission to develop *practical skills in shalom-making*? Evangelical Peacemakers [c/o The Manse, Tantany Lane, West Bromwich, West Midlands B71



1DS] and the London Mennonite Centre [14 Shepherds Hill, London N6 5AQ] are developing programmes to train Christians in peacemaking skills.

- **Developing new reflexes:** not to win; not [generally] to punish; but to *build relationships*. As in Exodus 18.13-26, to *make things right* for all parties. No longer being winners or losers but people living together in right relationships. That is what the Bible calls *shalom*! Our churches are the obvious places to pioneer in this.

Questions & Reflections

1. Do you think that there is need for radical prison reform in our society? Suggest what form it should take and what would be its motivating values? Why is such a strategy not on the church's agenda?
2. How should we treat murderers? What would you say to a murderer who would rather be executed than spend twenty years in prison? What does the practice of capital punishment say about a society?
3. A family you know has had a child murdered. What do you believe has to happen for both the family and the offender both to experience the justice of 'putting everything right'? Take account of the essential issues on all sides. Briefly say what you think are the strengths and weaknesses of our current justice system. How should the church be speaking and acting to bring about important change in legal and penal practice?

Reading and Resources

L Griffith '**The Fall of the Prison**' pub Eerdmans 1993
HW House & JH Yoder '**The Death Penalty Debate**' pub Word 1991
GH McHugh '**Christian Faith and Criminal Justice**' pub Paulist Press 1978
H Orland '**Prisons: Houses of Darkness**' pub Free Press 1978
H Prejean '**Dead Man Walking**' pub Harper Collins 1993
VW Redekop '**A Life for a Life?**' pub Herald 1990
D Samuel '**Safe Passage on City Streets**' pub Abingdon 1975
D Van Ness '**Crime and its Victims**' pub IVP 1986
H Zehr '**Changing Lenses**' pub Herald 1990

Video '**License To Kill**' from Amnesty International 1985

Video '**The Death Penalty**' [BBC] from Concord Films 1961

The Howard League for Penal Reform, 1 Ardleigh Road, London N1 4HS
e-mail : howard.league@ukonline.co.uk url : www.amnesty.org.uk

Amnesty International, 99-119 Rosebery Avenue, London EC1R 4RE
e-mail : info@amnesty.org.uk url : www.amnesty.org.uk

Mediation UK, Alexander House, Telephone Avenue, Bristol BS1 4BS

