

# The Second Finlayson Lecture

## Retribution and Punishment in the Old Testament, in the light of the New Testament

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In attempting to cover this subject I shall begin with a look at the words 'Retribution' and 'Punishment' in our common speech. Turning to Scripture, I shall be concerned with the relation between vengeance and retribution; with the ways in which certain punitive words are used in the Old Testament; and with the implications of the main punishments prescribed in the Mosaic law. Then from the New Testament I will try to show what place retribution has in the teaching of Jesus and the Apostles, and to what extent human action of this kind administers or foreshadows the judgment of heaven. Finally, since our interest is presumably not purely academic, I will make some comparison between views of punishment that prevail in our society and the doctrine of it to be found in Scripture.

### The words 'retribution' and 'punishment'

We have all been warned against relying too much on etymology in arriving at the current meaning of a word. But this discouragement should not be overdone, as though our present language owed nothing to its ancestry, or as though all words had departed equally from their origins. Many terms in fact remain in almost mint condition; and this is perhaps especially true of words that have escaped the friction of everyday use.

So with this apology I would remind you of a dictionary definition of the Latin verb *tribuo*: namely, 'to distribute, to assign, impart, allot, bestow'; to which is added in Dr Smith's dictionary the comment '(usu. implying that that which is given is *due*)'. The italics are his. But if this element of what is 'due' is present in the simple verb, it would seem to be doubly implied in *retribuo*, which the new Oxford Latin Dictionary defines as 'To hand back duly [*sic*], giving as examples 'money, etc., owed; also transf. a reward or punishment'. I suggest that our own word 'retribution' has lost nothing of this force. Whether we should accept it as a proper ingredient of punishment; and, if so, what priority it should have, are further questions, dependent ultimately on what is revealed in Scripture. For the moment it is enough to note its preoccupation with guilt and desert, rather than with needs and policies. In a word, it is *retrospective* rather than prospective: asking what has been done, and what requital is thereby due, rather than what can be done to improve some person or situation.

In itself, retribution can be thought of as operating either automatically or by personal intervention, whether private or judicial. There is a built-in tendency for evil to recoil on its perpetrator, which has given rise to many parallels to the biblical saying, 'he who digs a pit will fall into it' (Pr. 26:27). We remember the conclusion drawn by pagan onlookers when Paul escaped the sea only to be attacked by a viper. 'No doubt this man is a murderer . . . Justice (*dikē*) has not allowed him to live' (Acts 28:4). In the hands of individuals or groups between whom there is no hierarchical relationship, retribution takes the ugly form of vengeance (on which we shall have more to say). Only when it is administered on the basis of an authority that one party holds or claims over the other – for example, as a parent, a master or an agent of the community and its law – can retribution be called punishment.

But what of the word 'punishment' itself? Is it wider than retribution? Should it indeed, as the majority would now argue, sever all its links with such a concept? Before turning to Scripture for the theology of the matter, which will be our main task, we should at least look at the normal use of the word 'punish', to make sure that we shall not be doing needless violence to it. Here I would submit that this word is, properly speaking, as retrospective, and as concerned with desert, as is the word 'retribution'. It can admittedly be used loosely and metaphorically, as when one speaks of a punishing blow, or even of an overworked machine receiving heavy punishment; but these are merely vivid expressions for rough treatment. One comes a little nearer to its proper sense when a man swears vengeance in the words 'I'll punish him for this!' – but he is borrowing the term; it does not belong to him as a private individual. Indeed we shall argue from Scripture that it *belongs* not even to a judge: only to God, who entrusts it to certain agents. But even at the level of ordinary usage, the word 'punishment' obstinately retains both its aura of authority and its backward look to misdemeanours which have put their perpetrator in the wrong, and earned him what he has now to undergo.

One may of course shape the *content* of a punishment to some useful end: to reform the offender, to deter the tempted, to protect the public, or to express the community's disdain for certain things; and in this sense 'punishment' is a wider term than 'retribution'. But without retribution, without an implied reference to authority and to an offence and its deserts, the action is no longer punitive. We can only speak of 'punishment', rather than of thought-reform, or discipline, or restraint, or treatment, if the person we subject to these forward-

looking measures is undergoing them not only for his future good but (in the other sense of 'for') for his past evil: that is, for the specific wrong that he has done.

### Vengeance and Retribution in the Bible

Even in popular speech the line between vengeance and retribution can at times be very thin – and not without reason: for private vengeance, even at its worst, still has in it a trace-element of justice and even obligation: some notion that a moral debt has been incurred which cries out to be settled. And judicial retribution, for its part, can seldom be wholly dispassionate; nor in my view should it be. For while its calculation must be scrupulously fair, and its execution wholly without malice, a policy of pronouncing sentences with studied indifference would depersonalise, not to say trivialise, both the offender and his judge.<sup>1</sup>

Certainly Scripture, despite the well-known concern of C.H. Dodd and others to disengage God from what is called His wrath,<sup>2</sup> couples the strict logic of judgement (as sin's final fruit and the sinner's chosen lot) with a divine indignation which is anything but impersonal, using fiery metaphors and piling up such synonyms as 'anger and fury and great wrath' (Dt. 29:28). Moreover, the harsh word 'avenge' is sometimes the only possible translation of the roots *nqm* and *ekdikeō*: for example, when the direct object of the verb is neither the offender nor even his victim (where the weaker word 'vindicate' would make sense, as in some translations of Lk. 18:1-8) but the victim's *injury*. Thus God avenges *the blood* of His servants, as both Testaments assure us in several places.<sup>3</sup> This sense is equally clear in Romans 12:19, in at least the opening warning, 'Avenge not yourselves' (where the verb is *ekdikeō*). The reason is expressed in the same terms, namely that God has said 'Vengeance (*ekdikēsis*) is mine', and that He has appointed one's earthly governor as His avenger (*ekdikos*).<sup>4</sup> In such hands, of course, vengeance becomes judicial retribution; but the use of the same root in all three places underlines the closeness of the two concepts, while making it clear that the distinction between them lies not in the realm of the propriety or impropriety of requital as such, but in that of a person's right or lack of right to effect it. Where we might have expected the New Testament's warning to be clinched with the words 'for vengeance is wrong', it is striking that it quotes instead, unaltered, God's deuteronomic dictum, 'vengeance is mine'.

That dictum, we may add, is upheld throughout the Old Testament, which uses the root *nqm* and its LXX equivalent, *ekdikeō*, with approval only where God or His appointed agent exercises it. This is especially clear in Ezekiel 25:12-17, where first the vengeance of Edom and the Philistines is roundly condemned; but where secondly it will itself attract vengeance – the divine retribution which is called 'my vengeance'; and where, thirdly, in Edom's case this will be effected 'by the hand of my people Israel'. So, just as in the New Testament, wherever vengeance has the character of vendetta, or springs from cherished animosity, whether in nations (as above) or parties (e.g. Jer. 20:10; Lam. 3:60) or individuals, it is a sin. This is put most warmly in the great commandment of Leviticus 19:18: 'You shall not take vengeance or bear any grudge against the sons of your own people' (or, as verse 34 will make clear, against 'the stranger in your midst'), 'but you shall love your neighbour as yourself'. At the same time, this very command occurs in the context of a legal system whose penalties, many of them extreme, were to be carried out by men on God's behalf; even (in the case of murder) by the victim's next of kin.

I have dwelt on this two-edged term because its sharpness cuts through any effort we might make to turn the edge of retribution, but it is reinforced in Scripture by various other expressions which are less emotive but no less plain.

### The witness of Old Testament vocabulary

One way of speaking which simply *assumes* rather than argues that a crime and its deserts belong indissolubly together, is the Hebrew habit of using a single word for both an offence and its punishment. The earliest example meets us in Cain's protest to the LORD in Genesis 4:13, which at first sight appears to say, 'my iniquity (*'awōnī*) is greater than I can bear', but which in fact is using the word in its secondary sense of 'my punishment', as the context makes clear. The two senses are so intertwined that it is at times hard for the translator to decide which one is to prevail. Thus the familiar AV clause in the Law, 'he shall bear his iniquity', might be better rendered 'he shall bear his punishment' – for the vocabulary is the same as Cain's.<sup>5</sup> This word is no isolated example of the virtual identity of an act and its deserts in Hebrew thought. Work and wages, for instance, can both alike be expressed by the word *p<sup>c</sup>ullā*; likewise tidings and the messenger's reward by *b<sup>c</sup>sōrā*. And in the penal realm, the words for sin (*√ht'*) and guilt (*√šm*) can do double duty (like *'awōn*, above) to mean also 'punishment'<sup>6</sup> – or indeed treble duty, to mean at times the sacrifices that atone for them: the sin-offering (*hattā't*) and guilt-offering (*'āšām*).

While these examples have the considerable force of simply taking it for granted that a deed and its due are but two sides of the same coin, there are also verbs and nouns which spell the matter out specifically, in many contexts of punishment. The two most prominent roots for this are *šillēm* and *šūh*, expressing payment and return. The former of these is used to reinforce the famous utterance, 'Vengeance is mine', with the addendum

which the LXX and the New Testament render as 'I will repay' (Dt. 32:35; Rom. 12:19; Heb. 10:30), and it is prominent not only in the laws which deal with making reparation, but also in many prophecies and prayers. It is a mark of God's covenant-loyalty that He will 'requite a man according to his work' (Ps. 62:12 [13, Heb.]), whether with reward or (for the covenant-breaker of Dt. 7:10) with a highly personal retribution ('he will requite him to his face'). It is dauntingly deliberate in Isaiah 65:6,7. where 'I will repay' is not only repeated but reinforced with 'I will *measure* into their bosoms payment<sup>7</sup> for their former doings'.

The other verb of requital is *šbh*, to turn or return, which can speak of the natural recoil of a crime on its perpetrator (e.g. 'your deeds shall return on your own head', Obad. 15; cf. 1 Ki. 2:33). But far more often it is found in its causative form (hiph'il), with God as the doer, the one who 'returns' or 'renders' to a person what his deeds deserve. To take one instance, this is how Psalm 94, that psalm of divine retribution, calls upon the 'judge of the earth' to shine forth. 'Render to the proud their deserts' is its opening plea (and in the word 'deserts', *g'mil*, we have yet another double-duty word for both deed and recompense). Then in the final verse the singer sees his prayer accepted. 'He will bring back on them' (it is the same verb) 'their iniquity and wipe them out for their wickedness'. Among many other examples of this way of speaking, there is a particularly vivid instance in the closing comment on Abimelech and the men of Shechem in Judges 9:56,57: 'Thus God requited the crime of Abimelech . . .; and God also made all the wickedness of the men of Shechem fall back on their heads'. We can note, too, the use of the verb in parallel with 'punish' (*pdq*) in Hosea 12:2 (3, Heb.), and in construction with 'vengeance' or 'retribution' in Dt. 32:41,43, where it redoubles that word's retrospectiveness by promising, literally, to 'return retribution' on God's enemies.

Vocabulary, of course, is not everything; therefore for a control we must look to the biblical narratives and laws to find out how strictly or flexibly retribution was interpreted.

#### Examples of Old Testament practice

We are met at once by considerable flexibility in God's handling of the first murderer. First He decrees for Cain a punishment that falls short of the death penalty yet contains a strong element of retribution, by making the earth withhold its bounty and its hospitality, on account of its violation by the blood of Abel. But secondly, in reprimanding Cain from death God threatens not an equal but a sevenfold retribution on whoever might kill him. In both these sayings there is some degree of matching the sentence to the crime, yet the former sentence draws back from one-to-one equivalence, while the latter seems to disregard it utterly.<sup>8</sup>

While God's direct judgments are a special case (for He is not a servant of the law but the creative source of it and of all goodness and right), it was nevertheless possible to appeal to the precedent that He had set by this exercise of mercy, as David agreed over the 'Cain and Abel' case that was put to him – albeit fictitiously – by the woman of Tekoa. Perhaps, too, the very fact that in some cases any lifting or commuting of a penalty was forbidden ('your eye shall not pity . . .'; Dt. 13:8; 19:13,21; 25:12; cf. Num. 35:31ff.) may have implied that in other cases discretion might be exercised. Further, there is no wooden literalism of retribution in the penalties which the law did prescribe. This is true even of the *lex talionis*, 'an eye for an eye, a tooth for a tooth'. It has often been pointed out that the first statement of this principle is immediately followed by an example which treats it creatively: not extracting an actual eye or tooth from the master who has injured his slave, but requiring, instead, the slave's release (Ex. 21:24-27). It emerges that the *lex talionis* was designed to express to the judiciary, with maximum memorability, the principle of equity: neither minimising nor exaggerating the seriousness of an offence; still less ignoring it in the interest of some policy;<sup>9</sup> yet not simply re-enacting it.

This principle of proportionate but not imitative retribution is evident everywhere in the Law. The husband who defames his wife is not defamed in return, but beaten and fined (Dt. 22:18,19); the thief or swindler does not make good his offence by simple restitution, as if he were a mere borrower, but by an added fine and, in some cases, a sacrifice (Ex. 22:1,4; Num. 5:7). The adulterer and other gross sexual offenders obviously cannot suffer a penalty similar to the offence, but one, nevertheless, that is of equal gravity. This penalty, revealingly enough, is death, which is also the sentence for sins of sacrilege, rebellion, kidnapping and murder, though never for wrongs against property. There is a significant comment in Dt. 22:26 on the death-penalty for rape, which reads: 'for this case is like that of a man attacking and murdering his neighbour' – a remark which makes explicit the principle of proportionate retribution by its assessment of the seriousness of the crime and therefore of the punishment. For lesser crimes the principle is actually stated in so many words in Dt. 25:2, where the beating of an offender must be not only supervised by the judge and limited by the 40-stroke maximum, but must depend in the first place on whether 'he *deserves*<sup>10</sup> to be beaten', and then must be 'in proportion to his offence'. Our Lord gave heaven's endorsement to this principle in His words about 'a severe beating' and a 'light' one, in Lk. 12:47f.

I have suggested earlier, in looking at the terms we use, that while 'punishment' is a misnomer if it has no retrospective and retributive reference to justify and control it, yet (subject always to those controls) it may rightly have other ends to serve as well. This is borne out in Scripture by a number of comments.

There is the element of *deterrence*, prominent in Deuteronomy in the refrain which follows certain of its penalties: 'And all Israel shall hear, and fear, and never again do any such wickedness as this' (Dt. 13:11; cf. 17:13; 19:20; 21:21). A second motive is the *protection of society*, though I am not aware of any mention of physical protection as the end in view. The concern, rather, is for the nation's soul, as we might say, which is imperilled when crime remains unpunished. Here the refrain is: 'so shall you purge the evil from the midst of you' – whether that evil be something as openly disruptive as murder, perjury or anarchy, or as seemingly private as adultery or a bride's pre-marital unchastity. There are eleven such comments between Dt. 13 and 24,<sup>11</sup> giving this aspect of punishment apparent precedence over the deterrent aspect, since it concerns the relation of a whole people to God, and the danger of their sharing the guilt that they implicitly condone.

A third desirable element in punishment is the offender's *reformation*. While this receives no mention in the penalties laid down for individuals, it plays a large part in the national punishments foretold in Leviticus 26:14ff. for breach of the covenant. Retribution ('vengeance for the covenant', 26:25) remains the basis for these chastisements, as ever, or they would not be punishments; but the end in view is repentance, and the sufferings are described as discipline, using the root *ysr*<sup>12</sup> which is a favourite term in Proverbs for character-training. The fatherly relationship, indeed, whether divine or domestic, seems to be the biblical context for this reformatory aspect of punishment. In the lawcourt, the nearest approach to it is the reminder that the offender is still one's brother, whose punishment must not deny that fact by its excess (Dt. 25:3). This is an immense safeguard, but it is a far cry from making his rehabilitation a necessary criterion (let alone *the* criterion) in passing sentence on him.

Fourthly there is *restitution*. From one angle, the fivefold, fourfold or twofold repayment of a theft (ex. 22:1,4,9) was a punishment setting matters right between the offender and the law. But to the victim, thanks to the absence of any sharp distinction between criminal and civil cases, it brought the benefit of both repayment and compensation, since the money was payable not to the community but to him, if Ex. 22:9 (which specifies this) expresses what its companion passages evidently take for granted.<sup>13</sup>

All this may reaffirm to us that while retribution is the core of punishment in the Old Testament, it is not the whole of it. But it is time to see what attitude the New Testament takes to this word and concept.

#### Retribution and Punishment in the New Testament

To keep this study within bounds, I shall look chiefly at the teaching of Jesus. On our theme, that is, on what is to be done about evil and evildoers. His words are characteristically bold and colourful. There are no pastel shades, no mild or middle ways, but startling extremes of kindness and severity. Kindness, whether His or ours, runs here to unheard-of lengths of loving, giving, suffering, forgiving, and returning good for evil. But if a person opts, instead, for what he thinks is due to him, or fancies that God's grace is mere indulgence, he is warned of a severity that will exact the last farthing of his debt.

Retribution, in act, together with reward, meets us on nearly every page of the gospels; and while much of it is found in the parables, as the basis on which masters punish or promote their servants, or kings their subjects, we are not free to dismiss it as mere colouring material, for it is presented in most cases as the arrival point of a story which may well have begun with the words, 'The kingdom of heaven is like . . .', and be clinched with a warning that does nothing to reduce its impact. In one form or another it is put to us that 'So also my heavenly Father will do to every one of you, unless . . .'

Parables apart, Jesus was constantly reinforcing this line of teaching. For His endorsement of the Old Testament view of punishment as the due requital of deeds done, we need scarcely look further than His statement of His own intended action at the final Judgment: 'For the Son of man is to come with his angles in the glory of his Father, and then he will repay every man for what he has done' (Mt. 16:27). This is only overturned where grace has been free to operate. Where matters come to judgment, a multitude of sayings make it plain that there will be no compromise, no prospect of rehabilitation. The fire of ghenna is not the fire of a refiner.

Meanwhile, however, the Son of man had come to save, not to judge. His followers must live in the same spirit: of love, not litigation; of gloriously lopsided requital – giving back good for evil; not seeking an eye for an eye or a tooth for a tooth, but deeply aware that the lawcourt's guide could never be the lover's motto.

This is not to abolish lawcourts, nor to change their role. Jesus, no less than Paul or Peter, acknowledged civil power as a trust 'from above' (Jn. 19:11), and was ready to be tried on the basis of what could be proved about Him (Jn. 18:20-23). Paul had no quarrel with even a death sentence on him, if he could be shown to deserve it (Acts 25:11); and Peter expresses the responsibility of governors in terms of requital: 'to punish those who do wrong and to praise those who do right' (1 Pet. 2:14). His word for punishment here is *ekdikēsis*, whose root we have already noticed as the LXX equivalent of *nqm* (vengeance or retribution) and as a New Testament term carrying the same range of meaning. We saw that while personal vengeance was forbidden as decisively by Paul (Rom. 12:19a), as by Jesus, yet both alike – and indeed every New Testament writer – saw God as the one who

would exercise it in due course (Rom. 12:19b),<sup>14</sup> and Paul went on to name the civil power as God's *ekdikos*, His agent of retribution, in the meantime (Rom. 13:4).

Since the New Testament, however, is addressing us not as civil rulers but as church members and as citizens, it is mostly content to establish the basic retributive element in punishment, rather than to enlarge on its secondary and wider aspects. As we have seen, these have already been aired in the Old Testament, and it is chiefly from there that we may fill out the picture to include considerations of deterrence, public wellbeing, reformation and restitution, where they are appropriate. I have said 'chiefly', however, rather than 'only', because some of these features do emerge also in the New Testament's treatment of punishment and discipline within the church. Our Lord authorised a last-resort procedure for settling disputes, by the church acting as a court: hearing proper evidence (Mt. 18:16; cf. 2 Cor. 13:1) and having the right to excommunicate (Mt. 18:17), which is a penalty reminiscent of the Mosaic sentence to be 'cut off from the midst of the assembly'.<sup>15</sup>

Where this is taken up in Corinthians 5, it appears to be as final, if need be, as a deportation or a death sentence (though one not humanly administered, any more than was that on Ananias and Sapphira). Yet Paul emphasizes its constructive aspects even so: for its aim was the offender's ultimate salvation 'in the day of Jesus Christ' (5:5); and in this particular case it seems also to have brought about his more immediate repentance and reinstatement (2 Cor. 2:5-11). A second positive effect was the impact it made on the congregation, whose heart-searching and setting of their house in order is described in 2 Corinthians 7:8-12 – giving us a New Testament equivalent of the point made so often (as we have seen) in the Mosaic law: 'so shall you purge the evil from the midst of you'. And in his references to his own judicial authority as an apostle, Paul is careful to stress the fact that while he is 'ready to punish every disobedience' (using the retributive verb, *ekdikeō*, 2 Cor. 10:6), his authority was given him 'for building up and not for tearing down' (2 Cor. 10:8; 13:10).

Finally we must glance at the general modern rejection of retribution, and at the two most common alternatives to it.

#### Current objections and alternatives to retribution

The objections are mainly three:

1. Retribution is barbarous, rationalising the primitive urge to hit back;
2. It is negative, adding a second evil to a first;
3. It is unChristian, being forbidden in the Sermon on the Mount.

To these I would make the following beginnings of a reply:

1. One can take an opposite view of the instinct to retaliate; seeing in it, despite all the distortions of pride and hatred, some reckoning of desert. Judicial retribution can then be seen as isolating this one element of desert from its less worthy companions, in order to assess impartially and administer responsibly what appears to be due. If so, it is not a rationalisation of spite, but a conversion of rough into approximately true justice.

2. To the objection that retribution merely adds a second evil to a first, the basic answer is that the two acts are not unrelated, like two successive crimes, which are obviously worse than one, but are reciprocal. When the whole is considered, not the parts in uncorrelated succession, it is clear that a crime matched by retribution is a totality of which the parts are in a state of some degree of balance; whereas a punishment without a crime is an abuse of power (and indeed of language), and a crime without a punishment is as one-sided a transaction as a purchase without a payment. The balance may indeed be restored by some act of grace; but this transcends justice; it does not deny it.

3. As for the third objection, that retribution is unChristian, we have already seen the truth and half-truth of it, in considering the respective roles of the individual, the Lord, and the civil power, in relation to evil, as taught in the New Testament as a whole. To ignore these scriptural distinctions is to aspire to be more Christian than Christ and His apostles and to join together what God has put asunder.

We turn now to the two most common alternatives to retribution, namely the utilitarian approach which asks only what will bring most benefit to society and to the offender, and secondly the approach summed up in the word 'reprobation'.

The fatal weakness of the former of these, namely that it discards the notion of desert, exposes it to the danger of two opposite poles of injustice: *i.e.*, to laxity and tyranny. In a permissive society scarcely a day will pass without some instance of a sentence that makes light of a horrific crime, accompanied by such a comment as 'It would be nonsense to make you serve this prison sentence'.<sup>16</sup> But the opposite danger is envisaged in C.S. Lewis's classic article entitled 'The Humanitarian Theory of Punishment'.<sup>17</sup> Here I will quote only one extract, at a point where he is considering the situation in which a reformatory or deterrent sentence might be, as he puts it, 'hideously disproportionate to the criminal's deserts'. He continues: 'The experts with perfect logic will reply, "but nobody was talking about deserts. No one was talking about *punishment* in your archaic vindictive sense of the word. Here are the statistics proving that this treatment deters. Here are the statistics proving that this other treatment cures. What is your trouble?"'

To this, all that needs to be added is a reminder of the decision of Caiaphas to engineer the death of Christ, 'that the whole nation perish not' (Jn. 11:50). With extraordinary candour, the ethicist Sir David Ross, in drawing back from the primacy of retribution in punishment, quotes Caiaphas with reluctant approval. His exact words are as follows: 'The interests of society may sometimes be so deeply involved as to make it right [*sic!*] to punish an innocent man "that the whole nation perish not"'.<sup>18</sup>

Against this slide into moral relativism, the sticking-point most favoured by those who disallow retribution is the second concept mentioned above: that is, reprobation. Punishment, on this view, expresses society's revulsion against unacceptable behaviour. The report of the 1949-53 Royal Commission on Capital Punishment saw this as a refinement of the concept of retribution, a version purged of primitive thoughts of vengeance and expiation.<sup>19</sup>

Reprobation does indeed retain the vital notation of desert and of due proportion in assigning penalties; and it rightly abjures the vindictive spirit implied in the word vengeance. But in seeking to be high-minded it loses something of the simplicity and objectivity of retribution. Where retribution concentrates on the debt rather than the debtor, revulsion has the opposite tendency, and thereby inflicts, I suggest, a deeper wound. Within retribution, too, there is room for the offender to have some sense of expiating his offence, whether by serving the sentence that corresponds to it or by making restitution (as in the Mosaic law for theft). Under reprobation, however, since the idea of expiation or 'atonement', in the terminology of the report) is specifically disowned, the cloud of official disapproval lifts only at society's pleasure, and there is no way in which the offender can claim to have paid off his debt. Society's reply must be: 'No: it is we who have now discharged *our* debt – our obligation to act out our rejection of your behaviour'. The distinction may be a subtle one; and if the logic of reprobation is seldom followed through to this extent, it may be because common sense rebels against the insufficiency of the concept to be anything more than a supplement to the plainer if apparently harsher logic of retribution.

### In Conclusion

In the end, neither the consensus of penologists nor the intuitions of common sense can be anything but provisional and subject to divine correction. For if our authority to punish is from God, and if He has declared the principles on which He punishes, it is for us to follow and embody them as best we may. These principles we have already studied in our sampling of the Old and New Testaments which it would be wearisome to recapitulate in detail. Instead, I will sum up my understanding of this teaching, in words that I wrote some years ago, where I concluded 'that retribution is the *root* idea in punishment; not that it should be the only idea. If punishment can be constructive as well as fair, this is sheer gain; and if mercy can be exercised, this is a delight. But first the moral acts must be established: we must know what is owing, and be clear that it *is* owing. Only so can we be safe from overcharging on the one hand, when the fancy takes us, and from making a practical denial, on the other hand, through our laxity, that any values are absolute.'<sup>20</sup>

To give Scripture itself the last word, we may listen to the appeal of Hosea to a society as sadly adrift as our own:

Hold fast to love and Justice,  
and wait continually for your God.<sup>21</sup>

### Notes

<sup>1</sup> One is reminded of the gentleman in *Erewhon* who was afflicted with a tendency to swindle. He 'has but lately recovered from embezzling a large sum of money under singularly distressing circumstances' [he had relieved a widow of all her property] 'but he has quite got over it, and the straighteners say that he has made a really wonderful recovery; you are sure to like him'. (Samuel Butler, *Erewhon*, ch. VIII, end.)

<sup>2</sup> C.H. Dodd, *The Epistle of Paul to the Romans* (1932), Fontana Edition 1959, pp.48-50

<sup>3</sup> Dt. 32:43; 2 Ki. 9:7; Ps. 79:10; Rev. 6:10; 19:2. Cf. Mt. 23:35.

<sup>4</sup> Rom. 13:4; cf. *TDNT* II.444.

<sup>5</sup> On the other hand, in the ritual of the scapegoat it is clearly not the penalties but the iniquities of the nation that are confessed, transferred and borne away (Lv. 16:21,22); and something of the sort seems implied, too, in the role of priests as sinbearers in Ex. 28:38; Lv. 10:17, whereby they complete the process of atonement rather than suffer punishment.

<sup>6</sup> E.g., *hêt*: Lam. 3:39; cf. Lv. 20:20; 24:15; Nu.9:13; 18:32; Is. 53:12; Ezk. 23:49. Also *hattā't*: Zc. 14:19; also probably Lam. 4:6 in view of the contrast between a swift end and a lingering one, in the ensuing verses. For a clear example of *'āšām* in the sense of 'punish', see Joel 1:18, where man's fate involves his beasts.

<sup>7</sup> Our expression 'payment for their doings', translates the single term 'their *p<sup>c</sup>'ullā'* – another example of the identity between a deed and its due, discussed above.

<sup>8</sup> I say 'seems to', because the killing of Cain, marked as he now was with God's safe-conduct, would no longer

be simply an act of vengeance but one of sacrilege. This extra dimension of calculated defiance, compounding the offence, may account not only for the heavy penalty here, but also for God's later warnings of 'sevenfold' punishment for sins which imply a spurning of the covenant. See Lv. 26:18,21, etc., with 25 which speaks of 'vengeance for the covenant'.

- <sup>9</sup> The practice of 'positive discrimination', as it is now called, in favour of a politically sensitive social group, is condemned both when it favours the rich and when it favours the poor. 'You shall not be partial to the poor or defer to the great': Lv. 19:15; cf. Ex. 23:3.
- <sup>10</sup> Lit. 'is a son of beating'. Admittedly this kind of expression can mean merely 'is sentenced to . . .' (cf. NEB, GNB), as in Pss. 79:11; 102:20 (21, Heb.). But Jonathon's protest to Saul in 1 Sam. 20:32, 'Why . . .? What has he done?', picks up the stronger sense of the phrase Saul had used, as does David's taunt in 1 Sam. 26:16, 'You deserve to die'. Cf. 2 Sam. 12:5 and, in a context not of sentencing but of reprieve, 1 Ki. 2:26 (lit. 'a man of death').
- <sup>11</sup> Dt. 13:5 (6, Heb.); 17:7,12; 19:13,19; 21:9,21; 22:21,22,24; 24:7. The verb ('purge') is the pi'el of *b'r*, to burn out, exterminate; cf. the use of the pu'al of *kpr*, to make atonement, in Num. 35:33, where the murderer's death must clear the land of bloodguilt.
- <sup>12</sup> In the pi'el, vs. 18,28, for God's action; and in the niph'al, v.23, for the response it should evoke.
- <sup>13</sup> This is borne out by the law of Lv. 6:1-7 and Num. 5:5-10 concerning conscience-money, making the original sum plus one-fifth all payable to the defrauded person or his next-of-kin. Only if no kinsman could be found was it to go 'to the LORD for the priest' (Num. 5:8).
- <sup>14</sup> Cf. .e.g. Lk. 18:7,8; Heb. 10:26-31; Rev. 20:11-15.
- <sup>15</sup> Num. 19:20; cf. Lv. 17:4,9,10; 20:3,5,6; Num. 15:30,31.
- <sup>16</sup> These words of the Recorder of London (19 February, 1982, at the Old Bailey) reported while this paper was in preparation, were addressed to a woman who had killed her common-law husband, in response to a taunt from him, by pouring paraffin over him and igniting it.
- <sup>17</sup> In P.E. Hughes, ed., *Churchmen Speak* (Marcham Manor Press, Abingdon, 1966), 39-44. The extract quoted here is from p.40.
- <sup>18</sup> W.D. Ross, *The Right and the Good* (Oxford, 1930), 61.
- <sup>19</sup> *Report* (HMSO, 1953), sections 52,53, pp. 17,18.
- <sup>20</sup> D. Kidner, *The Death Penalty* (Falcon, 1963), 10.
- <sup>21</sup> Hosea 12:6 (7, Heb.).