

Politics and Christian Civilization

Judicial Precepts: Class Nine

II PRECEPTS REGULATING RELATIONSHIPS BETWEEN/AMONG MEN CONTINUED

JUDICIAL PRECEPTS REGARDING PUNISHMENTS

According to Tully (Roman philosopher & statesman 43 BC) , there are only 8 possible types of punishment according: **death, indemnification, retaliation, stripes, public humiliation, slavery, prison, and exile.**

Jews had all types but exile was limited and prison only in rare cases.

Punishment of **death** limited to gravest crimes against God, murder, stealing a man, irreverence toward parents, adultery, and incest. Wizards thou shall not suffer to live, bestiality = death, worship of false gods = death.

Theft of other things punished by **indemnification (2x, 4x, 5x)**

If suffered blows or mutilation = **retaliation (lex talionis)** and also for false witness.

Lesser faults = **stripes or public disgrace** (If did not marry deceased brother's wife = she took off his shoe and spit in his face.

Slavery = 2 cases: If did not avail self of Sabbath year privilege, or were a thief who could not make restitution.

Only one other type of punishment possible = **exile** but not permitted because of fear of idolatry = no absolute but limited exile if kill neighbor ignorantly when proved to have no hatred toward him = flee to city of refuge until death of high priest.

PUNISHMENTS DEPENDED ONE STATE OF OFFENDER

Sin that is concealed should be punished more severely in order to deter others from committing them. Sometimes **even lesser sins punished more severely if it is habitual** because men not easily cured of habitual sin except by severe punishment.

Four degrees of sin may be observed:

- (1) **Those unwillingly** committed = excused.
- (2) **Voluntary but through weakness as in passion.** punishment is diminished unless common good requires severe punishment to deter others.
- (3) Through **ignorance** = guilty to a certain extent due to lack of obtaining knowledge. Not of divine precept but ignorance of fact Lev 4:2
- (4) **Sin through pride** or deliberate choice or malice = punished according to greatness of sin.

Sin through stubbornness or obstinacy = **utterly to be cut off = a rebel and destroyer of the law. unruly son slain**, not because he ate and drank but because **of stubbornness and rebellion which was always punished by death.**

Judges could diminish or increase punishment **according to disposition of offender** or to **make an example of him.**

Usually example made on first offense such as Anninias and Saphira.

Lawgivers could not foresee dispositions so discretion is permitted to judges.

LAW OF EXILE

When man found dead an not known who did it, ancients in nearest city shall take a heifer that hath not drawn a yoke or ploughed the ground into a rocky valley that never was ploughed and shall strike off its head.
= Slayer often from nearest city so slaying of calf was a means of investigating the murder.

- Elders swore they had taken every measure to safeguard the roads
- Owner of heifer is indemnified. **If murderer discovered, beast not slain**
- If murderer not found, place where heifer slain remained uncultivated

To avoid this twofold loss, men of the city would presumably conduct investigation to make known the murderer who most likely had fled to refuge. Guarantees investigation will take place even if no police force.

This law of exile most likely instituted to assure a fair trial; and avoid a lynch mentality common to people who could exact vengeance. Prudent person if implicated would leave for City of Refuge and could not be removed unless evidence of malicious wrong doing and a trial with evidence and witnesses to prove it.

III PRECEPTS REGULATING MATTERS RELATING TO FOREIGNERS

Man's relations to foreigners are twofold: Peaceful or Hostile. Jews had precepts for both relationships.

Had 3 opportunities for peaceful relations with foreigners.

- When they passed through their lands as travelers
- When dwelt in land as newcomers (Thou shall not molest a stranger)
- When any foreigner wished to be admitted to ceremonies .

The Law excluded no nation from worship of God except anyone wishing to do so must first be circumcised.

No one was to be admitted to citizenship all at once = They do not yet have the common good of their new people at heart yet and can thus work mischief, need time for testing and assimilation. In temporal matters admission was not granted to everyone

Nation with close relations could be admitted in the third generation (Egyptians, Children of Esau).

Others with hostile relations (Ammonites and Moabites) never to be admitted while Amalekites even more hostile under a perpetual ban.

“The war of the Lord shall be against Amalec from generation to generation” (Ex 17:15-16) in detestation of past offense. Then the Lord said to Moses, “Write this on a scroll as something to be remembered and make sure that Joshua hears it, because I will completely blot out the memory of Amalek from under heaven.”

Moses built an altar and called it The Lord is my Banner. He said, “For hands were lifted up to the throne of the Lord. The Lord will be at war against the Amalekites from generation to generation.”

A city or nation may be punished for a crime that others may refrain from similar crimes.

Could have a dispensation for citizenship on account of some virtue:

Achior, captain of Ammonites (Judith 14:6) , was permitted to join people of Israel as was Ruth a Moabites who was a virtuous women.

Bastards were excluded from citizenship down to 10th generation (Hold up sanctity of marriage) as were eunuchs who could not have children among a people who honored a man for his many children.

But eunuchs were not excluded from ceremonies nor were strangers.

WAR could be waged for a just cause. **When besieged a city had to first offer it peace.** If began war should never stop until it was finished, Priest should hearten them before every battle by promising God’s help, and remove whoever might be an obstacle to victory.

Remove whatever proves an obstacle to fighting =

1. Men newly married or cowardly men who might flee.
2. Builder of a new house:

Man is accustomed to give affection to things lately acquired. It is a misfortune to deny one a good when so close in grasp.

Finally in war should use moderation in pursuing the advantage of victory **by sparing women and children and not cutting down fruit trees.**

A distinction was made among hostile cities. **Those distant and not promised to Jews.** Killed all men but spared women and children. In **neighboring cities** promised **them everyone was slain** on account of their former crimes. But fruit trees left untouched because would benefit the Jews thereafter.

For this purpose God sent Jews as His executioner. (Dt 9:5)

“Because they (other nations) have done wickedly, they are destroyed at thy coming.”

IV PRECEPTS PERTAINING TO FAMILY (DOMESTIC LIFE)

Family relation directed to securing necessities of life, to provide for food and clothing and other tools and external goods for which he also has servants.

The family is also necessary to give life and to preserve the species for which man needs a wife.

Thus relations in a house can be 3 fold

- Master to servant
- Husband and wife
- Father and children

We will examine next class