

## ESSAY ROUNDTABLE

# GOD THE JUDGE AND HUMAN JUSTICE

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The biblical authors often portray God as a royal judge who brings justice to a fallen creation. This portrayal analogizes God’s role in governing humanity to the role played by judges in human legal systems. The divine judge, like human judges, investigates and evaluates conduct, measuring human acts against applicable laws. Like human judges, he fashions punishments and rewards to accomplish justice in light of the conduct disclosed.

The recurring biblical portrayal of God as a judge invites reflection on the relationship between divine and human justice: How far should the analogy between God and human judges be taken? Should judges “imitate God, in whose Seat they sit?”<sup>1</sup> Or might the differences between God and human judges mean that some judgments are appropriate only for God to impose?<sup>2</sup>

This essay considers what insights divine justice might offer for human law. I begin by analyzing three biblical accounts of divine justice: Jesus’s story of the rich man and Lazarus, the punishment of King Uzziah for usurping priestly functions, and the reward bestowed on Jesus for resisting the devil’s temptations. In each account, God implements a sophisticated form of retributive justice, artistically applying the principle “as he has done it shall be done to him” (Leviticus 24:19).<sup>3</sup> This biblical understanding of divine justice can help us understand and evaluate human legal systems.

## BIBLICAL PORTRAYALS OF DIVINE JUSTICE

### *The Rich Man and Lazarus*

In Luke’s gospel, Jesus tells the story of the rich man and Lazarus (Luke 16:19–31). The narrative concerns a rich man who feasts daily. He routinely walks past a poor beggar named Lazarus but never stops to help. Jesus artistically describes how the rich man and Lazarus effectively trade places in the afterlife. As illustrated in the table below, the account reflects a sustained parallelism between what the rich man does (or fails to do) in this life and what happens in the life to come:

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1 Francis Bacon, *Of Judicature*, in FRANCIS BACON, *THE ESSAYS* 316, 320 (1625) (Scholars Press 1971).

2 Vladimir Soloviev, *On the Death Penalty*, in 2 *THE TEACHINGS OF MODERN CHRISTIANITY ON LAW, POLITICS AND HUMAN NATURE* 430 (John Witte, Jr. & Frank S. Alexander, eds., 2007).

3 Biblical quotations come from the English Standard Version.

This life	The afterlife
The rich man lives luxuriously. Lazarus is hungry and covered with sores. Lazarus longs for crumbs from the rich man’s table.	Lazarus rests in Abraham’s bosom. The rich man is thirsty and tormented by flame. The rich man longs for drops of water from Lazarus’s finger.
Lazarus begs, but the rich man fails to help. The rich man is presumably well known; Lazarus is overlooked.	The rich man begs, but Lazarus cannot help. Lazarus has a name; the rich man’s name is never mentioned.

The Mosaic “eye-for-an-eye” principle assumes a simple scenario in which one individual assaults another. In Jesus’s story, the rich man commits no act of violence. He hardly notices Lazarus. Does retributive justice apply to wrongful inaction? The Proverbs anticipated this question and offered a picture of retributive justice in circumstances like these: “Whoever closes his ear to the cry of the poor will himself call out and not be answered” (Proverbs 21:13). Jesus’s story offers an extended illustration of the proverb, clarifying how divine justice responds to indifference in the face of suffering.

*Uzziah and the Priests*

The author of Chronicles tells the story of Uzziah, who became king of Judah in place of his father (2 Chronicles 26). “[A]s long as he sought the LORD, God made him prosper.” As an old man, however, Uzziah’s pride led to his downfall. Uzziah entered the temple to burn incense, where he was confronted by Azariah and a company of priests:

“It is not for you, Uzziah, to burn incense to the LORD, but for the priests, the sons of Aaron, who are consecrated to burn incense. Go out of the sanctuary, for you have done wrong, and it will bring you no honor from the LORD God.” Then Uzziah was angry. Now he had a censer in his hand to burn incense, and when he became angry with the priests, leprosy broke out on his forehead in the presence of the priests in the house of the LORD, by the altar of incense. And Azariah the chief priest and all the priests looked at him, and behold, he was leprous in his forehead! And they rushed him out quickly, and he himself hurried to go out, because the LORD had struck him. And King Uzziah was a leper to the day of his death, and being a leper lived in a separate house, for he was excluded from the house of the LORD. And Jotham his son was over the king’s household, governing the people of the land. (2 Chronicles 26:18b–21)

From one perspective, we could say that Uzziah was unwilling to let God rule in God’s “house,” so the punishment made it impossible for Uzziah to rule in his own “house.”<sup>4</sup> From a broader perspective, however, Uzziah’s punishment reflects the harm inflicted on Israel’s communal life. Israel’s kings were to be descendants of David, from the tribe of Judah. Temple functions were reserved for priests from the tribe of Levi. By assigning the kingship and priesthood to different tribes, God implemented a form of separation of powers, ensuring a degree of partition between religion and politics. In his pride, Uzziah challenged this divided structure, seeking a place at the center of both political and religious life. Since Uzziah sought to usurp religious authority God had not given him, he was effectively deprived of the political authority God had given him.

4 Many thanks to Beth Beck for this observation.

Uzziah's usurpation of priestly functions rested on an implicit claim that he was morally fit to serve in the temple. Divine justice not only undermined the king's objective, but also responded to the implied assertion. The authority of the high priest was represented by a gold plate worn on his forehead, engraved with the words "Holy to the LORD" (Exodus 28:36–38). In response to Uzziah's misconduct, God gave the king leprosy, a sign of uncleanness, in the same location as the high priest's inscription.

### *Jesus's Resistance to Temptation*

Discussions of "justice" often focus on punishment, but giving people what they deserve also involves rewards for meritorious conduct. As illustrated in the table below, Matthew's gospel displays this sort of divine justice, artistically linking Jesus's virtuous conduct near the beginning of his public ministry, when he resists the devil's temptations (Matthew 4:8–10), with the honors bestowed on Jesus as the gospel draws to a close (Matthew 28:16–20).

Matthew 4:8–10	Matthew 28:16–20
The devil takes Jesus to a very high "mountain." Jesus refuses to "worship" the devil. The devil offers to "give" Jesus "all" the kingdoms of the world.	The disciples meet Jesus on a "mountain." The disciples "worship" Jesus. Jesus says "all" authority in heaven and on earth has been "given" to him.

These passages describe the first and last times Jesus ascends a mountain in Matthew's gospel, narrative details with structural significance.<sup>5</sup> The passages are linked by the theme of proper worship. Jesus rejects the devil's temptation based on the Deuteronomic principle that one must worship God alone. The gospel subtly reveals Jesus's divine identity when the disciples worship him at the end of the book. Comparison of the accounts also reveals parallelism between the inducement offered by Satan and the honor bestowed on Jesus after he triumphs over the cross. The devil offered to "give" Jesus "all" the kingdoms of the world and their glory. Because Jesus resisted temptation, God "gives" him "all" authority in heaven and on earth, a reward like, but greater than, the inducement offered by Satan.

### JESUS AND THE *LEX TALIONIS*

In the Sermon on the Mount from Matthew's gospel, Jesus seems to call into question the talionic "eye-for-an-eye" principle from the law of Moses:

You have heard that it was said, "An eye for an eye and a tooth for a tooth." But I say to you, Do not resist the one who is evil. But if anyone slaps you on the right cheek, turn to him the other also. And if anyone would sue you and take your tunic, let him have your cloak as well. And if anyone forces you to go one mile, go with him two miles. (Matthew 5:38–41)

5 WARREN A. GAGE & STEPHEN P. CARPENTER, A LITERARY GUIDE TO THE LIFE OF CHRIST IN MATTHEW, MARK, AND LUKE-ACTS: HOW THE SYNOPTIC EVANGELISTS TELL THE STORY OF JESUS 21–24 (St. Andrews House 2014) (digital publication through Logos Bible Software).

This passage has led some Christians to conclude that “Jesus explicitly repudiated the *lex talionis*.”<sup>6</sup> If Jesus in fact rejected the talionic principle, that could call into question the broader norm of retributive justice.

Several other passages from the Sermon on the Mount, however, assume that God as judge enforces the demands of retributive justice. Consider a familiar petition from the Lord’s Prayer: “forgive us our debts, as we also have forgiven our debtors.” Jesus elaborates: “For if you forgive others their trespasses, your heavenly Father will also forgive you, but if you do not forgive others their trespasses, neither will your Father forgive your trespasses” (Matthew 6:14–15). Jesus’s teaching rests on a talionic understanding of divine justice; God treats people the same way they treat others. Another familiar passage makes a similar point: “Judge not, that you be not judged. For with the judgment you pronounce you will be judged, and with the measure you use it will be measured to you” (Matthew 7:1–2). Retributive justice may also underlie a number of the Beatitudes. For instance, “Blessed are the merciful, for they shall receive mercy” seems perfectly retributive; the blessed are treated the same way they treat others (Matthew 5:7).

Considering the context, then, we should read Jesus’s teaching concerning the talionic principle against a background assumption of divine retribution. In place of “[a]n eye for an eye and a tooth for a tooth” from the law of Moses, Jesus instructs “[d]o not resist the one who is evil,” offering three illustrations. Each illustration, on closer examination, involves a connection between the talionic principle and Jesus’s suggested response. If one person slaps another on the cheek, the talionic principle would call for a retaliatory slap on the aggressor’s cheek. When Jesus says “turn to him the other [cheek] also,” he urges the victim to accept the punishment the aggressor deserves. Similarly, if someone evil sues for a person’s tunic, the talionic response would be to demand the plaintiff’s garment in return. Instead, Jesus tells the victim to “let him have your cloak as well,” accepting the retributive punishment earned by the wrongdoer. The talionic response to being forced to walk a mile would be to force the aggressor to walk a mile in a different direction. Jesus instead asks the victim to “go with him two miles.”

Jesus does not question the justice of retribution, but asks his followers to set aside the demands of justice or, more precisely, to fulfill the demands of justice on behalf of those who wrong them. Jesus’s teaching here provides a picture of His own ministry as explained in other parts of the New Testament. Jesus’s death fulfilled the demands of justice on behalf of those who were his enemies (Romans 3:21–26, 5:6–10). We should not be surprised, then, that echoes of this passage reverberate through Matthew’s account of Jesus’s trial and execution. We see Jesus slapped on the face during his trial before the high priest (Matthew 26:67–68). We see him stripped of his garments by Roman soldiers (Matthew 27:31, 35). We see him forced to walk from Gethsemane to Caiaphas, then from Caiaphas to Pilate, and then from Pilate to Golgotha (Matthew 26:57, 27:2, 31).

Jesus does not reject retributive justice in the Sermon on the Mount, but instead draws novel implications from the assumption of divine retribution. The talionic principle gives retributive justice a backward looking focus. Jesus gives retributive justice a forward looking focus in the Golden Rule: “So whatever you wish that others would do to you, do also to them, for this is the Law and the Prophets” (Matthew 7:12). Christians are not to treat others the way others treated them in the past; instead they must treat others the way they would like to be treated in the future.

6 UNITED METHODIST CHURCH, BOOK OF RESOLUTIONS, 2004 (2004), resolution 246.

## GOD'S JUSTICE AND HUMAN JUSTICE

Having examined biblical depictions of divine justice, we are now in a position to consider implications for human law. We might analogize this exercise to the use economists make of the idea of perfect competition. A model of perfect competition assists in economic analysis because “the operation of a purely competitive economy provides us with a standard, or norm, against which the efficiency of the real-world economy can be compared and evaluated.”<sup>7</sup> Similarly, we can describe perfect justice by reference to the characteristics of God as Judge and the relationship between acts and consequences in his judgments. These features of perfect justice can then help us evaluate human legal systems and identify shortcomings and limitations of human law.

### *God's Character as a Model for Human Judges*

Biblical narratives about divine justice rest on the foundation of God's character. Attributes that make God an ideal judge can be used to evaluate human judges. King Jehoshaphat makes this logic explicit when he instructs the judges of Judah: “Consider what you do, for you judge not for man but for the LORD. He is with you in giving judgment. Now then, let the fear of the LORD be upon you. Be careful what you do, for there is no injustice with the LORD our God, or partiality or taking bribes” (2 Chronicles 19). God is just, so judges must be just. God is impartial, so they should be impartial. God will not take a bribe, so neither should they.

### *Human Judges Lack God's Knowledge and Power*

Although we want human judges to imitate God in certain respects, there are many ways in which human judges differ from God. These differences affect the reliability of human judgments and the capacity of human institutions to accomplish complete justice. Human judges lack God's full knowledge of past and future events. They often base their legal conclusions on factual findings later found to be inaccurate. God also differs from human judges with respect to the power and resources at his command. The limited power of human courts bounds the sorts of judgments they can impose and, hence, the objectives human justice can pursue. A biblical understanding of our moral obligations—perfect love of God and neighbor—compels a distinction between morality and law. Human justice necessarily falls short of divine justice both in the range of obligations enforced and the accuracy of determinations concerning whether those obligations have been violated.

### *Perfect Retribution and the Theory of Punishment*

How should governments decide what punishments to inflict? Retributivists argue that offenders should be given the punishments they deserve. They suggest that viewing punishment as a means to an end, without reference to any notion of desert, could result in excessive punishments. Consequentialists argue that punishment should produce desirable consequences, such as deterrence or incapacitation or reformation. A consistent theory of retribution, they believe, calls for the state to inflict suffering on the morally culpable, even when no social good results.

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7 CAMPBELL R. MCCONNELL & WILLIAM HENRY POPE, *ECONOMICS: PRINCIPLES, PROBLEMS, AND POLICIES* 137 (4th Canadian ed. 1987).

Discussions between retributivists and consequentialists often reference the talionic principle, understood to embody a retributive theory of punishment. But while divine justice is retributive, it does not follow that Christians should side with retributivists over consequentialists in debates about human law. Our examination of biblical justice led to the conclusion that human government can enforce only a small subset of the obligations imposed by divine law. Human government possesses limited capacity and resources, and must leave much wrongdoing unaddressed. In deciding how to direct the coercive efforts of government, plenty of room exists for consequentialist considerations, even if one believes in retribution as the ideal of justice.

### *The Unsatisfactory Results of Proportionality Review*

The US Supreme Court has interpreted two provisions of the Constitution to require some degree of proportionality between an offense and the resulting punishment, the Eighth Amendment with respect to criminal sentencing<sup>8</sup> and the Due Process Clause in connection with punitive damages.<sup>9</sup> The Court's proportionality jurisprudence will always be problematic. We can see the problem by comparing the Court's attempts at proportionality analysis with the examples of biblical justice discussed above. In the biblical accounts, the punishment was *like* the offense in some clearly discernible way. Our system of justice, however, relies on monetary penalties and imprisonment. These homogenized modes of punishment make it virtually impossible to determine whether the magnitude of a penalty matches the gravity of the offense.

### *Divine Justice as a Motive for Mercy*

Some retributivists consider mercy problematic, since clemency involves a departure from the requirements of justice. Saint Augustine addressed this question in a fascinating letter responding to an inquiry from a Roman judge. The provincial governor of Africa, Macedonius, asked why the clergy interceded on behalf of condemned prisoners. He suggested that the church implicated itself in criminal conduct by seeking to prevent just punishment.

In response, Augustine offered several arguments for clerical intercession and judicial clemency. Of particular interest, Augustine contended a judge should extend mercy because the judge will one day be judged: “[Y]ou need the mercy which you grant to others.”<sup>10</sup> In this respect, he suggested, the judge, the criminal, and the intercessor all stand on common ground: “we intercede, if not as criminals for criminals, at least as sinners for sinners, and, I think, with sinners.”<sup>11</sup>

Augustine's letter to Macedonius suggests various limiting principles to cabin judicial clemency. Intercession was apparently limited to offenders who acknowledged their crimes and promised a change of behavior. He also recognized that for some offenders, mercy might do more harm than good. Moreover, he acknowledged that judicial severity can serve important purposes, including deterrence.<sup>12</sup>

8 See, e.g., *Harmelin v. Michigan*, 501 U.S. 957 (1991).

9 See, e.g., *State Farm Mutual Automotive Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

10 Letter from Augustine to Macedonius (Letter 153), in OLIVER O'DONOVAN & JOAN LOCKWOOD O'DONOVAN, FROM IRENAEUS TO GROTIUS: A SOURCEBOOK IN CHRISTIAN POLITICAL THOUGHT 119, 125 (1999).

11 *Id.*

12 *Id.* at 127 (“There is good . . . in your severity which works to secure our tranquility, and there is good in our intercession which works to restrain your severity.”).

CONCLUSION

Biblical portrayals of God as judge turn out to hold numerous lessons for human law. Not least is the need for humility, as the human judge contemplates the limitations that make it impossible to accomplish more than a pale shadow of the justice of God.