

GEN 9:6: A COMPARATIVE STUDY OF BLOODSHED IN BIBLE AND TALMUD

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"Whoever sheds the blood of man, by man shall his blood be shed; for God made man in his own image" (Gen 9:6 *RSV*).¹ Nowhere in the Bible is the requirement of the death penalty more forcefully stated. Nowhere in the Bible is the principle of "measure for measure" more clearly enunciated. Therefore it is logical and profitable to analyze the broad ramifications of Gen 9:6² for ethical and judicial principles with respect to this kind of punishment.

I. ETHICAL CONSIDERATIONS

The ethical considerations for deterrent to murder center around the Biblical description of the relationship of God to man. Man is made in the image of God (Gen 1:27). The life with which man was endowed by God (2:7) was identified with man's blood (Lev 17:14). Therefore the phrase "sheds the blood of man" (Gen 9:6) is equivalent to "takes the life of man." And since life is identified as the gift of God, the shedding of man's blood—that is, the taking of man's life—is considered not only an irreparable injustice against man but also an outrage against God himself.³

II. UNIVERSAL APPLICATION

It is not surprising, then, to note that the Biblical declaration of retribution against the murderer is of universal application. The death penalty for murder was not enunciated merely because murder is a horrible social crime, although no doubt that would have been sufficient reason, but because murder is seen as striking at that very likeness of God with which man is stamped.

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¹G. von Rad, *Genesis: A Commentary* (Philadelphia: Westminster, 1956) 128: "Man is God's possession and was created in God's image. The saying in v 6 is extremely ancient and forceful, masterfully pregnant both in form (exact correspondence of the words in both halves of the statement) as well as in content. . . . It could be that it once legally prescribed and limited the exercise of blood vengeance: In the event of a murder the blood vengeance could not be reckless (cf ch 4:23); only the murderer (he, and no substitute) atones with death."

²Cf. *Tg. Onq.* Gen 9:6.

³D. J. McCarthy, "The Symbolism of Blood and Sacrifice," *JBL* 88 (1969) 174, 176: "The explicit claim that blood is life and so divine remains isolated to Israel. . . . The evidence from the ancient Semitic and Aegean areas does not show a general belief outside Israel in blood as a divine element. . . . As far as we know, the reservation of blood to God because it was life and so divine is specifically Israelite."

Thus the pre-Mosaic pronouncement of Gen 9:6 applied to all. The outraged reaction of God against the first murder was very personal: "What have you done? The voice of your brother's blood is crying to me from the ground. And now you are cursed from the ground, which has opened its mouth to receive your brother's blood from your hand" (4:10-11). The anger of God against the shedder of blood is pictured as a timeless, universal, personal response on his part. Just as the Biblical narrative describes his outrage at murder before the flood, so after the flood the account of his personal announcement to all men is given: "Surely I will require your lifeblood; from every beast I will require it. And from every man, from every man's brother I will require the life of man" (9:5 *NASB*). Milgrom presents the thesis that even the Biblical legislation concerning dietary practices

rests on foundations that are essentially ethical, and ethical in the highest sense, [and] that the dietary laws are anchored in an ethical foundation was not unknown to the rabbis of the Talmudic age. . . . The fathers of Judaism felt so keenly about the ethical primacy of the dietary system that they enjoined one of its tenets, the blood prohibition, upon all mankind. . . . The Hebrew Bible, according to its own testimony, was intended for Israel alone—even the Ten Commandments. Only one biblical statute, the blood prohibition, is commanded to all men.⁴

III. JUDICIAL EMPHASIS IN THE TORAH

It is therefore to be expected that in the Torah judicial emphasis be placed upon matters related to the shedding of blood. Neither is it surprising that the people took these laws seriously. For example, in view of the expiatory nature of blood in the sacrificial system under which they lived the Israelites could readily accept the divine imperative for the man's blood to be shed in expiation who had himself polluted the land by shedding his fellow man's blood: "You shall not thus pollute the land in which you live; for blood pollutes the land, and no expiation can be made for the land, for the blood that is shed in it, except by the blood of him who shed it" (Num 35:33).⁵

Basically the judicial sanctions against the one guilty of bloodshed were ultimately viewed as expressions of the divine wrath and therefore were incurred as consequences for sin. This punishment for the sin of bloodshed was understood to be of high priority in the eyes of God: "For behold, the Lord is coming forth out of his place to punish the inhabitants of the earth for their

⁴J. Milgrom, "The Biblical Diet Laws as an Ethical System," *Int* 17 (1963) 291, 294, 300. But cf. the numerous rabbinic legends indicating that the Torah—and certainly the Decalogue—was meant for all mankind, though other nations rejected it when God offered it to them; e.g. *Sipre* Deut 33:2. The divine utterance was heard in seventy languages, according to *b. Sabb.* 88b. Every single word that went forth from the Omnipotent was split up into seventy languages—i.e., the Torah was given to all humanity.

⁵M. Greenberg, "Bloodguilt," *IDB*, 1. 449: "In Israel . . . bloodguilt was defiling, but it was incurred only through slaying a man who did not deserve to die (*dm nqy*, 'innocent blood'; Deut. 19:10; Jer. 26:15; Jonah 1:14). Killing in self-defence and the judicial execution of criminals are explicitly exempted (Ex. 22:2—H 22:1; Lev. 20:9; etc.)."

iniquity, and the earth will disclose the blood shed upon her, and will no more cover her slain" (Isa 26:21).

IV. CONSEQUENCES OF BLOODSHED

The intricate system of various punishments for different kinds of bloodshed was very much a part of the life of Israel in Biblical times. If someone took another person's life deliberately, the slayer was to be put to death (Gen 9:6). If man failed to carry out his responsibilities, God gave his assurance that he would personally require the lifeblood of the guilty (9:5). The assurance that the murderer would eventually be punished—if not by man under God's law, then by divine wrath—is seen in the type of language used to describe God's action where murder was concerned. Examples: "And you shall strike down the house of Ahab your master, that I may avenge on Jezebel the blood of my servants the prophets, and the blood of all the servants of the Lord" (2 Kgs 9:7). "And the Lord said to him, 'Call his name Jezreel; for yet a little while, and I will punish the house of Jehu for the blood of Jezreel, and I will put an end to the kingdom of the house of Israel'" (Hos 1:4).⁶

Through the crime of bloodshed the Temple was destroyed and the Shechinah departed from Israel, as it is written, "So ye shall not pollute the land wherein ye are; for blood, it polluteth the land. . . . And thou shalt not defile the land which ye inhabit, in the midst of which I dwell" (Num 35:33-34). Hence, if ye do defile it, ye will not inhabit it and I will not dwell in its midst.⁷

So the shedding of blood was not only viewed in the Bible as the cause of God's bringing down of dynasties. It was also viewed by the later rabbis as the reason for the destruction of the temple.

Bloodshed was also seen by the sages as a partial reason for the exile: "Exile comes to the world for idolatry, for incest and for bloodshed, and for [transgressing the commandment of] the [year of the] release of the land."⁸

The homeowner was warned against becoming the cause of death on his premises at the risk of incurring guilt: "When you build a new house, you shall make a parapet for your roof, that you may not bring the guilt of blood upon your house, if any one fall from it" (Deut 22:8).⁹ Examples are numerous in the Bible as to what constituted a potential or actual demand under law that one pay the price of his own blood for his deed.

⁶J. Mauchline, "Hosea," *IB*, 6, 569-570, with reference to the name "Jezreel," holds that "the view of Rashi that the name refers to the exile of Israel and to their being sown or scattered is farfetched." He continues: "The name Jezreel, as borne by Hosea's child, was a reminder of the bloodshed for which punishment was about to come."

⁷*b. Šabb.* 33a. Also cf. *Yoma* 9b, where it is stated that one of the reasons for the destruction of the first temple was bloodshed: "Why was the first Sanctuary destroyed? Because of three [evil] things which prevailed there: idolatry, immorality, bloodshed."

⁸*m. Abot* 5:9.

⁹S. R. Driver, *Deuteronomy* (ICC; 3d ed.; Edinburgh: T. and T. Clark, 1902) 251: "This law is peculiar to Dt., but a provision prompted by the same general motive is found in Ex. 21:33ff."

V. *GÔ'ĒL HADDĀM*

Another significant feature of Jewish law was the provision for the blood avenger. In view of what has been said earlier in connection with the ethical background and the expiatory nature of sacrificial blood for the sins of the people and of man's blood for the blood he has shed, it is obviously no mere coincidence that the Hebrew term for "blood avenger" (*gô'el haddām*) is applied with equal validity to one who acted as redeemer.¹⁰ Examples: "The blood avenger himself shall put the murderer to death; he shall put him to death when he meets him" (Num 35:19 *NASB*). "And now it is true that I am a near kinsman, yet there is a kinsman nearer than I" (Ruth 3:12; "kinsman" = *gô'el*).

1. *Early activity of the gô'el haddām.* Theoretically there was a sense in which the blood avenger was committing a redemptive act rather than a vengeful act when he put the murderer to death. The murderer had polluted the land, and no expiation could be made for the land on account of the blood that had been shed on it except the blood of the murderer (Num 35:33). Therefore the act of the avenger was, from the Biblical point of view, primarily expiatory in essence while admittedly often vindictive in practice.

It is a fact that in early times the act of outright simple vengeance in taking life as a satisfaction for a grievance was common practice. In describing bedouin life among the early Arab clans Hitti states:

Blood, according to the primitive law of the desert, calls for blood; no chastisement is recognized other than that of vengeance. The nearest of kin is supposed to assume primary responsibility. A blood feud may last forty years. . . . In all the *ayyam al-Arab*, those intertribal battles of pre-Islamic days, the chronicles emphasize the blood feud motif.¹¹

An early example of the blood-feud motif in the Bible is seen in Lamech's pronouncement: "Lamech said to his wives: 'Adah and Zillah, hear my voice; you wives of Lamech, hearken to what I say: I have slain a man for wounding me, a young man for striking me. If Cain is avenged sevenfold, truly Lamech seventy-sevenfold'" (Gen 4:23-24).

2. *Role of the gô'el haddām greatly curtailed by Torah.* By the law of the Torah the role of the blood avenger was sharply curtailed, and as a result of rabbinic elaboration and refinement of the law further restrictions were imposed. For example, the avenger was not free to seek vengeance unless the murder was premeditated: "And if he stabbed him from hatred, or hurled at him, lying in wait, so that he died, or in enmity struck him down with his

¹⁰The verb *gā'al* means "to redeem," and what one redeems depends on circumstances. It may be a kinsman's house or field—or his blood, if he is murdered. The only common factor is the blood relationship—i.e., kinship—between the *gô'el* and the person on whose behalf he acts.

¹¹P. K. Hitti, *History of the Arabs* (London/Edinburgh: Macmillan/T. and T. Clark, 1940) 26. Cf. also B. Lewis, *The Arabs in History* (Tiptree: Anchor, 1950) 30: "The chief social limitation of the prevailing anarchy was the custom of blood-vengeance, imposing on the kin of a murdered man the duty of exacting vengeance from the murderer or one of his fellow tribesmen."

hand, so that he died, then he who struck the blow shall be put to death; he is a murderer; the avenger of blood shall put the murderer to death, when he meets him" (Num 35:20-21). That the murder was indeed committed with malice could be determined by the fact that the murderer carried out his deed with a murder weapon: "But if he struck him down with an instrument of iron, so that he died, he is a murderer; the murderer shall be put to death. And if he struck him down with a stone in the hand, by which a man may die, and he died, he is a murderer; the murderer shall be put to death. Or if he struck him down with a weapon of wood in the hand, by which a man may die, and he died, he is a murderer; the murderer shall be put to death" (35:16-18).

3. *Gô'el haddām further regulated by rabbinic rules and courts.* As the rabbis interpreted the Torah and expanded on its principles with reference to the rule of the blood avenger, they eventually brought the courts to a place of greater jurisdiction in certain cases.¹² For example, if the murder victim had no near relative who could serve as blood avenger, the court appointed one:

And what is the reference to the "avenger of blood"?—It has been taught: "The avenger of blood shall himself put the murderer to death" (Num. 35:19). It is [primarily] the duty of the avenger of blood [to slay the murderer]. And whence do we know that, if he [the murdered man] has no avenger of blood, the Beth din must appoint one?—From the verse, "When he meeteth him," i.e., in all cases.¹³

This example is important. It shows that the role of the blood avenger was not altogether an act of vengeance, as was pointed out earlier, but that under law the court-appointed avenger was actually serving as a dispassionate executioner of a criminal for the committing of a capital offense. This is again a reminder that the ethics of this practice under Jewish law were higher than the name "blood avenger" may superficially suggest. In fact, the Aramaic rendering of *Tg. Onqelos* on Gen 9:6 shows that the requirement of witnesses and due judicial process in effect eliminated the action of the blood avenger independent of the courts: "He that sheds the blood of man before witnesses, by the word of the judges shall his blood be shed."¹⁴

VI. CITIES OF REFUGE

Another feature of the Torah that showed a compassionate concern for human life was the provision of cities of refuge to which one could flee if he had accidentally slain someone: "These six cities shall be for refuge for the people of Israel, and for the stranger and for the sojourner among them, that anyone who kills any person without intent may flee there" (Num 35:15). Thus under law a way was provided for the protection of one who had become a

¹²Cf. J. Blidstein, "Capital Punishment—The Classic Jewish Discussion," *Judaism* 14/2 (Spring 1965) 169 nn. 4, 5.

¹³*Sanh.* 45b.

¹⁴*Pentateuch with Targum Onkelos and Rashi's Commentary—Genesis* (ed. A. M. Silberman; London: Shapiro, Vallentine, 1929) 37-38.

manslayer but who was not guilty of premeditated murder. Interestingly enough, however, von Rad says that

the institution of the right of asylum serves above all to limit the rights of blood-revenger, which in itself has absolute authority, that is, whenever one of a family is killed the next of kin know they will be called upon to exact vengeance. . . . Blood-revenge is not by any means a custom which the law-giver wishes to abolish. . . . So far as we can see, kingship and the power of the State have no effective influence on legal practice, certainly in the countryside. Hence, in cases of murder in Israel, blood-revenge remained a quite legitimate institution in itself.¹⁵

Thus the legal arrangements with respect to this entire subject not only protected the innocent. They also prevented the blood avenger from acting rashly and prematurely by shedding innocent blood. A practical illustration of this arrangement under law is spelled out in detail in the Torah as follows (Deut 19:4-6):

This is the provision for the manslayer, who by fleeing there may save his life. If any one kills his neighbor unintentionally without having been at enmity with him in time past—as when a man goes into the forest with his neighbor to cut wood, and his hand swings the axe to cut down a tree, and the head slips from the handle and strikes his neighbor so that he dies—he may flee to one of these cities and save his life; lest the avenger of blood in hot anger pursue the manslayer and overtake him, because the way is long, and wound him mortally, though the man did not deserve to die, since he was not at enmity with this neighbor in time past.

Another curtailment of the blood avenger's scope of action had to do with cases where there was doubt as to whether the one who had shed blood was guilty of involuntary manslaughter or murder. In such cases the manslayer had the assurance of a public trial: "Then the congregation shall judge between the slayer and the blood avenger according to these ordinances" (Num 35:24 *NASB*). Under this legal procedure the manslayer was given every consideration possible. (1) The cities of refuge were a true haven for him if he had accidentally killed someone.¹⁶ The "hot anger" of the blood avenger could not touch him there. (2) If there was doubt as to whether he had taken life with murderous intent, the blood avenger was held at bay while he received a public trial. (3) He was assured he would not be turned over to the avenger unless he was proven guilty of murder by the due process of law: "The cities shall be for you a refuge from the avenger, that the manslayer may not die until he stands before the congregation for judgment" (35:12).

VII. CONCLUSION

The evidence from the sources shows that ethical considerations for deterrent to murder center around the relationship of God to man. God's wrath is

¹⁵G. von Rad, *Deuteronomy: A Commentary* (Philadelphia: Westminster, 1966) 127-128.

¹⁶E. Rackman, "Talmudic Insights on Human Rights," *Judaism* 1/2 (April 1952) 160: "Rabbi Isaac explained the significance of the verse, 'and that fleeing unto one of these cities he might live' (Deut.

stirred when man sheds man's blood because man is made in God's image and man's life is "in the blood." Therefore God often acted directly against the offender. He also supplied in the Torah the legislation by which man was regulated in his desire for revenge against the shedder of blood.

The early pre-Mosaic practice of personal revenge for injustice suffered was channeled by the Torah into a judicial framework whereby the blood avenger was a redeemer as well as an avenger. Also, protection was provided in the cities of refuge for the manslayer who had taken life inadvertently.

The sages, in their conviction that actions in the matter of "blood for blood" should be governed by law and not motivated by personal vengeance, brought these matters more fully under the jurisdiction of the courts.

4:42). This implies, 'provide the means for a livelihood' (B. *Makkot* 10a). If the refugee was a scholar, he was even to be provided with a college for the continuous practice of his calling (J. *Makkot* 6)."