

§ 7. Doctrine of Christ

Lecture 19

Objection to the Coherence of Penal Substitution

Last time we considered an objection to the coherence of the doctrine of penal substitution. The basic idea of this objection is that punishment inherently involves an attitude of condemnation or censure. But since Christ was sinless, God could not have had an attitude of condemnation or censure toward Christ and therefore it is impossible that God could have punished Christ. Any harsh treatment that God might have afflicted Christ with would not count as punishment and therefore the doctrine of penal substitution is incoherent.

Jan suggested to me after the lesson last Sunday that it would perhaps help people's understanding of this objection if I could encapsulate it in a very simple, clear form. That is what I've done here on the whiteboard. It seems to me that this argument consists of basically three premises.

1. If Christ was sinless, God could not have condemned Christ.
2. But if God could not have condemned Christ, God could not have punished Christ.
3. If God could not have punished Christ, penal substitution is false.

By means of this argument, it shows that if Christ was sinless then penal substitution is false. Since, of course, orthodox Christianity holds that Christ was sinless, it follows that penal substitution is false. This seems to be the argument in a nutshell.

How might we respond to this objection to penal substitution? Well, it seems to me that all three of the premises are vulnerable! All three of them are eminently challengeable. To begin with, what about this last premise – number (3) – if God could not have punished Christ then penal substitution is false? You will remember that I suggested last time that in fact some proponents of penal substitution do not think that God punished Christ. Rather, the way we define penal substitution is that it is the doctrine that God afflicted Christ with the suffering that we deserved as the punishment for our sins. God did not punish Christ according to these thinkers. Rather, he inflicted upon Christ the suffering which would have been our punishment if it had been inflicted on us instead. Those thinkers would simply deny premise (3) that it is not true that the truth of penal substitution stands or falls with whether God could have punished Christ. In fact, these thinkers believe that God did not punish Christ and yet penal substitution is true. So if you hold to that view of penal substitution the argument falls apart because premise (3) is false.

But what about premise (2) – if God could not have condemned Christ then God could not have punished Christ? We saw that this is based upon what is called an expressivist

theory of punishment. According to this theory of punishment, harsh treatment, in order to be punishment, needs to express condemnation or censure for the wrong that was done. The idea is that if God could not have condemned Christ he could not have punished Christ. It seems to me that the penal substitution theorist could simply reject an expressivist theory of punishment and so deny this premise. If you reject an expressivist theory of punishment then it is not true that if God could not have condemned Christ he could not have punished Christ. Even though the expressivist theory of punishment is very popular among legal theorists today, it is not as though there are overwhelming arguments in support of it.¹ In fact, there are crimes in our criminal justice system which deserve punishment and are punished even though these punishments do not express condemnation or censure. What I am thinking of here is crimes of so-called “strict liability.” Crimes of strict liability are cases in which crimes are committed and yet the person involved is not found to be blameworthy or at fault. These crimes are committed without fault and yet they are still punishable. These are far from unusual cases. There are thousands of statutory crimes involving elements of strict liability. For example, crimes like the possession of narcotics or firearms are crimes of strict liability. If, while you are shopping, some person sticks a handgun into your purse and you don’t notice it and later the police discover you to be carrying this unauthorized weapon, this is a crime of strict liability. Even though you are not at fault, you have broken the law by possessing this firearm and are therefore held liable. Or, again, crimes like the selling of mislabeled foods or selling prescription drugs without a valid prescription. These are crimes of strict liability. There was one case where a pharmacist sold a prescription drug to someone who came in with a forged prescription. It was fake, but the pharmacist didn’t know it and so he sold the man the prescription drugs. The pharmacist was then charged with a crime because this is a strict liability offense to sell prescription drugs without a valid prescription. These crimes of strict liability seem to involve no censure or condemnation of the person involved and yet they still are punishments under our criminal justice system. This would go to show, I think, that the expressivist theory of punishment is not true. It isn’t true that punishments always carry with them this attitude or stigma of condemnation or censure.

In fact, when you think about it, penal substitution in a secular context provides a very powerful counterexample to the claim that punishment inherently expresses an attitude of censure or condemnation toward the person who is being punished. Hugo Grotius wrote a classic defense of the doctrine of penal substitution entitled *A Defence of the Catholic Faith* in 1617. Grotius points out that the practice of punishing a substitute was well-understood and widely practiced in the ancient world. He gives example after example from classic literature of substitutionary punishment in a secular context in the ancient

¹ 5:01

world. Not only were substitutes punished in the ancient world, but the people who voluntarily stepped forward to serve as a substitute for someone else were universally admired as paradigms of nobility – someone who would be willing to give his life for the sake of someone else. We moderns may regard such a practice as primitive and morally abhorrent, but it would be cultural imperialism for us to claim that these ancient societies did not endorse and even practice penal substitution. A defender of penal substitution I think could claim very plausibly that it just isn't true that punishment inevitably carries with it an attitude of condemnation or censure.

So the defender of penal substitution could endorse a non-expressivist theory of punishment. For example, he could say that punishment is harsh treatment of someone by a recognized authority for an infraction of a law or command.² If that is correct then it isn't true that if God could not have condemned Christ, God could not have punished Christ. He could punish him without condemnation or censure.

That would be if you just rejected outright an expressivist theory of punishment. But does an expressivist theory of punishment actually imply an attitude of condemnation or censure toward the person punished as I just assumed up to now? Well, no! It doesn't. In fact, expressivism as it is typically formulated is completely consistent with penal substitution. For example, consider the conditions for punishment that we looked at last time. The fourth of those conditions was this: "Fourth, the hardship or loss must be imposed, at least in part, as a way of sending a message of condemnation or censure for what is believed to be a wrongful act or omission." That definition does not, in fact, say that the condemnation or censure needs to be directed toward the person punished. Censure could be either of the crime itself (the act itself was abhorrent and wrong) or it could be of the criminal who actually did the crime (he could be censured or condemned). On Joel Feinberg's account (remember Joel Feinberg was the legal theorist who developed this expressivist theory of punishment), he says, "punishment expresses the community's strong disapproval of what the criminal did. Indeed it can be said that punishment expresses the judgment of the community that what the criminal did was wrong." The attitude of condemnation or censure is for what the criminal did. It is not directed toward the person punished. I think, in fact, these people who are pressing this objection of penal substitution have really failed to understand an expressivist theory of punishment. Expressivism holds that there is a certain stigma attached to punishment, but it does not say that this condemnation or censure needs to be targeting a particular person such as the person punished. Expressivist theories of punishment, as they are typically formulated, are completely consistent with penal substitution. That is just as it should be given the attitude toward penal substitutes in those societies which have practiced it. They did not have an attitude of condemnation or censure toward those penal substitutes.

² 10:04

So either by rejecting an expressivist theory of punishment or by correctly formulating an expressivist theory of punishment you can see that God could have punished Christ without censuring or condemning Christ.

START DISCUSSION

Student: I am just thinking that God made it clear at the beginning that the result of sin was death and that Christ chose to pay that price for us. In other words, I am not hearing where, yes, God punished Christ but Christ voluntarily took that punishment. So there is an element to me of the free will and his taking it because from the beginning of time God and sin could not co-exist and we could not be reunited with him with that in play. I am just wondering if that is not part of this because Christ said, *Your will be done, not mine. If you can take this hour from me please do. But your will, not mine.* So he voluntarily took that. Is that part of this whole penal . . . ?

Dr. Craig: I think that the voluntariness of Christ's sacrifice and suffering is more relevant to another objection to penal substitution that we'll consider next – and that is to the justice of penal substitution.³ The most common objection to penal substitution is not, in fact, this one – that it is incoherent. The most common objection is that it is immoral – that it is unjust to punish an innocent person for somebody else's sins. There I do think the voluntariness of Christ's undertaking this will be relevant. Here it is not as relevant because we are asking whether or not punishment of Christ, whether voluntarily undertaken or not, is really punishment. Does it have to have this element of condemnation or censure in it to count as punishment even if it is voluntarily submitted to? That is why I've left that out of account in dealing with this objection.

Student: The penal substitution is trying to achieve the purpose of establishing justice. Man upholds justice by punishing wrong. But God chose to uphold justice by demonstrating right. Christ – he was not punished but to solicit the community to enter into agreement of what righteousness is.

Dr. Craig: I am going to say some more about God's justice. Clearly justice is an attribute of God, a property of God. Paul talks about the righteousness of God. The word there can be translated "the justice of God" as well. The root word for "justification" is this same word for God's "righteousness" or "justice." So we will want to ask about what is the character of God's justice. We will talk about that later on. I think the point that you are making would be comprised in someone's rejecting (3). You seem to be wanting to say that you can have a penal substitutionary theory without punishment. I do think that that is true. One can formulate penal substitution in such a way as I did that it doesn't involve punishment. That would allow for the view that you've expressed as well. But whether or not that is going to be adequate to divine justice remains to be seen.

³

Student: It is the standard. It is a way to establish the standard of justice. The community's expressive agreement – if we agree that Christ has paid for the punishment or died for the punishment of wrong and that we agree in what the standard of justice is. That is the purpose.

Dr. Craig: Well, God's justice is independent of our agreement to it or not. I am recalling now in response to someone else's question about the nature of justice. We distinguished between retributive justice and consequentialist justice, and I suggested then that the biblical view of God's justice is retributive. I'll say something more about that later on. So it is not just a sort of positive righteousness that needs to be established. The demands of God's retributive justice need to be satisfied as well. I think that that calls for a penal substitute.

Student: It seems that the idea that the condemnation is of the act rather than the actor is confirmed by Romans 8:3 where it says that God sending his Son in human flesh condemned sin in the flesh – not condemned the sinner but condemned sin in the flesh.

Dr. Craig: Yeah, Romans 8:3 does say that – he condemned sin in the flesh. So, yes, you could use that as a verse in support of that view.

Student: I have a question about the evolution of thought on penal substitution in the level of concern or objection to it that people have had over time. I think about Charles Dickens' writing *A Tale of Two Cities* in the 1800s. It seems to me that he was predicating the response to that novel on the audience's understanding of penal substitution and admiration of the person doing it. Can you comment on that?

Dr. Craig: *A Tale of Two Cities* is this wonderful story set in the French Revolution where a man rescues a condemned prisoner who is about to go to the guillotine and puts himself in his place so that he is taken to the guillotine and killed while this other man is enabled to escape back to England.⁴ He is clearly a Christ figure in the story in that he gives his life voluntarily for this other person. He does suffer as a penal substitute. He is punished by the authorities in the French Revolution and killed. That would be an example, I think, of penal substitution. I suppose one might say, however, that it is not a counterexample because in this case the authorities (namely the revolutionary forces in France) did have an attitude of condemnation and censure toward the people that they thought they were executing. But clearly this person himself was not guilty of any crime. On the contrary, it was a heroic act.

Student: Right. I am not saying it is necessarily an example of an objection. I am just asking about the evolution of thought on penal substitution. Clearly Dickens in the 1800s assumed that people understood it.

Dr. Craig: Well, the objection to penal substitution goes back a long way before Dickens. It really goes back to Socinus who I believe wrote in 1578. I think that is the right date. It certainly is in the neighborhood. His treatise on *Jesus Christ the Savior*. He was a unitarian theologian. He launched this withering attack upon penal substitution. By all accounts, everybody, whether sympathetic to the doctrine or not, recognizes that this was a brilliant piece of work. It is probably the most powerful case against penal substitution that has ever been written. Orthodox theologians have been answering it ever since. So already a couple centuries later in the time of Dickens this would have already been well-known. Perhaps they were confident in British culture at that time that the attacks of Socinus had been successfully turned back. There were lots and lots of responses to it. But it is a perennial issue. It just keep coming up every generation over and over again.

Student: I have a problem with using the strict liability for an objection for the first premise. It seems as though strict liability smacks of consequentialism to me because it seems to be beneficial to society but it is hard to imagine that if you were to put a gun in someone else's purse that they should be held accountable. They don't even know. It just seems to lack any retributive . . .

Dr. Craig: Let's be clear on the limited purpose for which I am appealing to strict liability. As you say, we are not here arguing in favor of the justice of penal substitution. What we are just showing is that punishment does not necessarily involve condemnation or censure of the person being punished because in cases of strict liability that is clearly not the case. These people are blameless. These are crimes committed without fault. Now you might complain about the justice of this. Then you would have a bone to pick with our American justice system and with European justice systems as well. That is another issue. Here we are just using the illustration to show that contrary to the expressivist theory of punishment it is not always true that punishments carry this stigma of condemnation or censure.

Student: In the Roman world the practice of decimation would be a possibility where you have a group of people that is collectively guilty of cowardice in battle. They would randomly choose lots of soldiers from the legion – one out of every ten – to be killed. Those ten might not be guilty themselves of cowardice so you would have a person paying the penalty for the group.

Dr. Craig: Yes, what he is referring to – to repeat the word – “decimation” comes from the word for “ten.” Every tenth soldier would be executed rather than kill off the whole battalion which would be disastrous for your armed forces.⁵ So they would selectively kill them off. This would be another example, I think, in the ancient world of where this

⁵ 25:16

sort of penal substitution would go on. This person is dying for the whole group. So there are actually numerous sorts of examples like this that one could point to.

Student: In Leviticus where the priests use the scapegoat to lay the sins of the people, is that a foreshadowing or is that something that they determined . . . ?

Dr. Craig: This is a real good question. I think that in the Levitical sacrifices (including the *Yom Kippur* sacrifice) there is an element of substitution. The worshiper brings his sacrificial animal to the tabernacle or the temple, and he doesn't give it to the priest to slay. He is required to take the animal and to kill it himself on the altar. Before he does so he lays his hand on the head of the animal and presses down on it. This seems to be a ritual symbolic identification of the worshiper with the animal so that the animal's death represents the worshiper's death. He is a substitute for the worshiper who deserves to die for his sins but he doesn't. The animal dies instead. In the *Yom Kippur* sacrifice, the priest lays both of his hands on the head of the animal and it says he lays the sins and the transgressions and the iniquities of the people on the animal. Then it is driven out into the desert carrying their sins away. It does seem to me that this involves substitution and is a kind of foreshadowing of Christ's substitutionary death. Biblically speaking I think the central proof-text for penal substitution is Isaiah 53, but I do think you are correct in saying that in these Levitical sacrifices you also have a foreshadowing of this substitutionary motif.

END DISCUSSION

We've seen that the penal substitution theorist could reject either premise (3) or premise (2). But what about premise (1)? If Christ was sinless, God could not have condemned Christ. Is this undeniable?

In fact, critics of penal substitution I think have overlooked the Reformers' doctrine of the imputation of sins, which we saw was defended by theologians like Francois Turretin. On this theory even though Christ is personally without moral fault, he is legally guilty before God and therefore condemned by God for our sins. Given the doctrine of the imputation of sins, it is not true that even though Christ was sinless he could not have been legally condemned before the bar of God's justice in virtue of the imputation of our sins to Christ. It is interesting that critics of penal substitution admit that if you embrace the doctrine of the imputation of sins then their objection to penal substitution does fail. They admit that. Given the imputation of our sins to Christ then Christ could be legally condemned by God before the bar of divine justice. But they reject the doctrine of imputation! For example, a German professor and Old Testament scholar named Otfried Hofius in exegeting Isaiah 53 defends very energetically the fact that Isaiah 53 is about penal substitution. The suffering Servant of the Lord bears the sins of the people and dies in their place. It is by his wounds and his death that healing and forgiveness of sins is

available. But having argued that, Hofius then goes on to say that such a doctrine is outrageous and that we have no experience whatsoever in our justice system of this idea of imputing one person's sins to another person.⁶ Therefore, even though this is taught in Isaiah 53 it is an absurd doctrine and cannot be accepted.

Well, Professor Hofius notwithstanding, the fact is that this kind of imputation is a common feature in our criminal justice and civil law system.

First, in civil law there are cases of what is called vicarious liability. This is based upon a principle known in the law called *respondeat superior* (which is Latin and means roughly "let the master be answerable" - the master must answer). It is based upon the principle that a master is responsible for the acts of his servant in the course of his service. If the servant in the course of his service does something wrong the master is going to be held responsible for it. On the contemporary scene this has led to a widely accepted principle that employers are held responsible for the acts of their employees in their work as employees. For example, even though the employer may have done nothing wrong, he can be held to be vicariously liable for acts done by his employee. It needs to be emphasized in a case like this that the employer is not being held liable for other misdeeds like negligence in failing to supervise the employee or carelessness or anything like that. No, he may be completely blameless in the matter, but the liability which is incurred by his employee for certain acts is imputed to the superior because of that superior-subordinate relationship in which they stand. For example, after speaking on this topic, a woman approached me afterwards and she said, *I am a nurse. This principle is everywhere in medicine.* If a chief surgeon is performing a surgery and one of the subordinates botches the surgery, even though the chief supervising surgeon did nothing wrong – absolutely innocent – he is the one who is held liable for the acts of that nurse or subordinate that did the medical malpractice. The liability of the subordinate is imputed to the superior. It is not transferred from the subordinate to the superior, but it is replicated in the superior. The liability that the employee has is replicated in the employer. In cases of vicarious liability we have a clear case in which the responsibility for an act can be imputed to someone who did not do the act and is innocent. He is held vicariously liable.

Somebody might say: *that is fine in the civil law. That concerns damages that are sought from one private person against another through a lawsuit. But what about in criminal law?* The fact is that vicarious liability also makes an appearance in criminal law as well. There are criminal as well as civil applications of this principle of *respondeat superior*. The liability for crimes which are committed by a subordinate in the discharge of his duties can be imputed to his employer. So both the employer and the employee may be found guilty for crimes which only the employee committed. To give a couple of

⁶ 30:16

examples. There was a case where the owner of a café hired a manager to run the café for him. This manager allowed prostitutes to gather in the café in violation of the law.⁷ The manager's criminal act was imputed to the owner of the café on the basis of this principle, and the owner of the café was held to be criminally liable for the acts of the manager. In another case, the owner of a bar was held to be criminally liable because his bartender illegally sold alcohol to a policeman on duty which was against the law. Even though the owner of the bar didn't do this, the act of the bartender was imputed to him so that he was also held criminally liable. So in the vicarious liability that exists in the law, I think we see clear parallels to the notion that the guilt of our sins can be imputed to Christ even though he did not do those acts, even though he is virtuous and sinless, nevertheless you have I think a very close analogy in the law to the imputation of our sins to Christ.

If that is the case then it is not true that if Christ was sinless God could not have condemned Christ. Given the imputation of our sins to Christ he was vicariously liable for those sins. Again, you've got to understand me. This is not to say that Christ became a sinful, wicked, lustful, selfish, murderous, hateful person. No, he remained a paradigm of moral virtue. But he was counted legally guilty. This is a legal guilt that is imputed to Christ in virtue of his vicarious liability.

That means that this first premise is actually false as well given the doctrine of the imputation of sins, and this doctrine is one in which we have experience in our criminal justice system.

START DISCUSSION

Student: Biblical support – 2 Corinthians 5:21 says, “For he made him who knew no sin to be sin for us that we might become the righteousness of God in him.”

Dr. Craig: I think that is the most powerful verse for the imputation of sin. Let's just repeat it. “God made him who knew no sin [he was sinless] to become sin for us.” This is the notion of the imputation of our sins to Christ.

Student: Just to expound upon the parallel just a little bit. I see this all the time in my field in the legal industry when I'm taking depositions. The person who the damages were against (let's say a FedEx driver hits someone), they never sue the FedEx driver. They sue FedEx. But it is not just because FedEx is appropriately liable. That individual – there is no way they could possibly pay appropriate damages. Justice could never be done because that driver doesn't have the money to pay appropriately. For justice to be done someone else has to actually pay. If someone hits – like a FedEx driver – a bus full of kids and they all pass away, there is no way any one individual could pay the appropriate damages for that. Nobody ever could, period, but at least FedEx (the company itself) could come a lot closer to being able to pay appropriate damages.

⁷ 35:05

Dr. Craig: Yes, and notice in this case, what you have drawn our attention to, is you have a kind of corporate person who is held to be vicariously liable. FedEx, the company. BP, the company, is held responsible for the oil spill. The engineer himself couldn't possibly pay the damages, as you indicate. What is the analogy with Christ? Only Christ could pay the infinite debt to divine justice that we owe. I think it is a wonderful analogy that you've drawn for us there. It is in virtue of this principle of vicarious liability that this can be done.

Student: Could you speak briefly to the recursivity or lack thereof of this vicarious liability because Christ being now responsible for sin in this imputation of our sin and having made himself a servant to the Father, what is the vicarious responsibility or liability there as he is acting as a servant taking on the sin of the world and the Father is the master.⁸

Dr. Craig: Obviously, Christians don't believe that the Father is held vicariously liable for our sins. One divine person of the Trinity, who is God, takes on this vicarious liability for us and satisfies divine justice. Given the divine justice is satisfied, no further payment needs to be made. In fact, that leads me to comment one more time on the previous illustration. If FedEx pays the penalty or the damages and the driver doesn't, this is penal substitution, isn't it? Not only is the wrongdoing imputed to the other person, but the other person pays the punishment or the penalty, and the other guy goes free – the one who did the act! The person who was guilty of the wrongdoing goes free because his guilt is atoned for by the superior. This looks for all the world like penal substitution to me. It is actually part of our justice system.

END DISCUSSION

It seems to me that this argument against the coherence of penal substitution is quite, well, let's just say it is not very powerful. Every one of its premises is eminently challengeable and therefore I think can be put to rest.

But we are not out of the woods yet. Next we have to consider objections to the justification of penal substitution. Is it immoral to punish an innocent person for the acts of another?⁹

⁸ 40:00

⁹ Total Running Time: 42:06 (Copyright © 2017 William Lane Craig)