

# The Law of Liberty

By Carl S. Milsted, Jr., Ph.D.

*But whoso looketh into the perfect law of liberty, and continueth therein, he being not a forgetful hearer, but a doer of the work, this man shall be blessed in his deed.*

--James 1:25

**S**t. James refers to the Old Testament law as the “law of liberty.” Many conservatives say likewise: “This country was founded on Biblical principles,” or “Our Founding Fathers were students of the Bible. This is why they were able to craft a free country.”

Old Testament Law? Freedom?

My atheist and pagan friends beg to differ! “The Old Testament Law was harsh and authoritarian! It is full of death penalties!” They have a point. Consider the following death penalty offenses:

- Working on the Sabbath (which is Friday sunset to Saturday sunset, BTW) [Ex. 31:14, 35:2]. Even gathering sticks or lighting a fire on the Sabbath could get you killed! [Num. 15 for fire]
- Cursing a parent. [Lev. 20:9]
- Adultery and certain other sex crimes. [Lev. 20:10-16]
- Being a medium. [Lev. 20:27]
- Cursing God. [Lev. 24:14]
- False prophecy. [Deut 13:5]
- Worshipping other gods. [Deut, 13:6-9, Deut 17:2-5]

This is not a complete list. In some ways the Old Testament system was harsh and authoritarian. My atheist and pagan friends have a point. Many on the Religious Right who would confirm this opinion, since these fundamentalists would gleefully take away many of the freedoms that remain in our nation, and would put yet more people in jail.

Perhaps this “law of liberty” language is really just spiritual language. I have encountered many a pastor who would say thus. Perhaps following these laws is the way to obtain the greater liberty that comes with the Resurrection. Perhaps looking for political liberty in the Old Testament is a misinterpretation. Surface argumentation seems to back this up, giving us agreement between atheists, pagans, the Religious Right, and certain “spiritual” flavors of Christianity. Maybe those conservatives who claim that the Bible led to political liberty are merely misguided traditionalists.

On the other hand, there is the data. Take a look at a map of the world and note those countries that have a degree of freedom, prosperity and political stability. Compare this with a map of nations dominated by Protestant (i.e., Bible-thumping) Christianity. The overlap is almost perfect. We do have some outliers. Japan is relatively free and quite prosperous, but it was recently conquered by the United States who imposed Japan’s current government. Take a look in

the Middle East and you will find little in the way of stable democratic countries – except Israel, which is, of course, heavily influenced by the Old Testament.

Yes, I know plenty of freedom-loving freethinkers, atheists who are more libertarian than most Christians. Many of them even claim that to have a freer society requires getting people to reject religion and to study philosophy instead. However, we have had many nations that tried this; they were called communist. Such nations had a tendency toward bureaucracy, prison camps, genocide, and other terrors.

I know some pagans who claim that a tolerant society requires a pagan revival. Those who believe in many gods are supposed to be more tolerant of other beliefs and lifestyles than those who restrict themselves to one god—and a jealous one at that. This is an interesting theory, but recent data are not promising. The biggest pagan revival of modern times was Nazi Germany. Hitler was a nature-loving vegetarian with an interest in reviving ancient German folkways, including its old religion. The results were not pretty.

In between there was The French Revolution, an attempt to have a country adopt a “rational” religion accompanied by a Reign of Terror.

The data indicate that the religious conservatives are right. There is a correlation between Bible study and liberty, albeit imperfect. Bible-thumping Christianity has not always led to liberty, especially when it has been polluted with racism. But on the whole, its record is better than the alternatives.

But why is this so, despite the authoritarian elements in the Law of Moses? Coincidence? Divine intervention? Or what?

While I do think that divine intervention is a factor, there is a more mundane mechanism hidden in plain view: there are many libertarian elements to the Law of Moses, far more than generally recognized. Many of the libertarian guarantees in the U.S. Constitution are also called for in the Old Testament. There are also quite a few liberties mandated in the Law of Moses that we currently do not have in the U.S. Some of the tyrannical ideas called for by the Religious Right are violations of the Law of Moses. The problem with certain Fundamentalists is that they are not fundamentalist enough!

In what follows I will focus on the Old Testament law, that is, what was to be enforced in the Holy Land. Please note that just because something was permitted does not mean that it was or is moral, only that there was no mandate for punishment by government. For example, polygamy was legal, but it was never the ideal, as Jesus pointed out.

Note also that the New Testament sets a higher standard of personal behavior, but it gives even less mandate for forcing its standards upon others. Jesus set an example of forgiving acts that were punishable under Old Testament law and called for his followers to do likewise. As such, I think it is safe to say that the Old Testament law forms an upper limit on what Christians are allowed to force upon others and a lower limit on Christian standards of personal behavior. That is, if an act is punishable under Old Testament law, then Christians may or may not have a mandate to enforce such a law today, but if it was not punishable under Old Testament law, Christians definitely do not have such authority. (Space does not allow me to expand upon this assertion here, but I intend to cover this in a future article entitled “The Power of Mercy.”)

# Size of Government

Conservatives complain about high taxes, gigantic bureaucracy, ridiculous lawsuits, piles of forms, envy...

Liberals complain about the cost of the military, the number of people in prison, police tactics, inherited wealth, wage slavery, poverty...

How about a system with:

- A low tax that is completely self-assessed with no legal penalty for non-compliance.
- No forms to fill out.
- Harsh penalties for frivolous lawsuits.
- No standing army.
- No jails!
- No police!
- Limits on wage slavery, a universal right to land ownership and interest-free capital so all have a chance at being financially independent.
- A welfare system open to all without question.

This is what we find in the Law of Moses – the law of liberty – if we look deeply enough.

After the conquest of Canaan, there was no standing army. It was a purely militia-based system. And even in times of war, sensitive peace-loving hippies were exempt from military service [Deut. 20:8]. (Had the United States followed this dictate, we might have won in Viet Nam.)

As for taxes, there was the annual tithe (10% of the increase of farm output) to support the priesthood. But this was more religious observance than actual support of government. The priests did some governmental functions, but not much – at least as far as I can tell. (Another 10% was to be spent for the three annual religious gatherings, but that was spent on self and family. A third 10% was assessed only on the

*And the officers shall speak further unto the people, and they shall say, What man is there that is fearful and fainthearted? let him go and return unto his house, lest his brethren's heart faint as well as his heart.*

*--Deuteronomy 20:8*

*Therefore when thou doest thine alms, do not sound a trumpet before thee, as the hypocrites do in the synagogues and in the streets, that they may have glory of men. Verily I say unto you, They have their reward.*

*--Matthew 6:2*

“third year,” presumably of the 7-year cycle, for feeding the poor and for the priests.)

As far as I can tell, assessment was purely on the honor system. I can find no enforcement provisions other than divine wrath for those who paid less. In

the Gospel account [Matt. 6:2] we are given a picture of the rich bringing in large amounts of offerings in an ostentatious display to show off their prosperity – much as modern rich people pay for buildings at universities and the like.

Of course, life without real government requires personal and civic responsibility. People were expected to take care of their parents in their old age. Wealthy people were to give zero

interest loans to their poorer neighbors. Farmers were to form spontaneous armies in times of invasion. Eventually, the ancient Hebrews tired of this responsibility and demanded a king. The prophet Samuel's response is one of the earliest libertarian statements on record.

*10. And Samuel told all the words of the Lord unto the people that asked of him a king.*

*11. And he said, This will be the manner of the king that shall reign over you: He will take your sons, and appoint them for himself, for his chariots, and to be his horsemen; and some shall run before his chariots.*

*12. And he will appoint him captains over thousands, and captains over fifties; and will set them to ear his ground, and to reap his harvest, and to make his instruments of war, and instruments of his chariots.*

*13. And he will take your daughters to be confectionaries, and to be cooks, and to be bakers.*

*14. And he will take your fields, and your vineyards, and your oliveyards, even the best of them, and give them to his servants.*

*15. And he will take the tenth of your seed, and of your vineyards, and give to his officers, and to his servants.*

*16. And he will take your menservants, and your maidservants, and your goodliest young men, and your asses, and put them to his work.*

*17. He will take the tenth of your sheep: and ye shall be his servants.*

*18. And ye shall cry out in that day because of your king which ye shall have chosen you; and the Lord will not hear you in that day.*

--*I Samuel 8*

# Prison

No prisons!

If ever there was a powerful indicator of freedom, it would be the number of people in prison; that is, the lack thereof. Alas, this is an indicator where the United States is failing miserably. At the moment, the U.S. has one of the world's highest prison populations. Over 2 million Americans are imprisoned! We need to either fix this or change our national anthem. We are no longer the land of the free and the home of the brave. In fact, the U.S. has become guilty of quite a few human rights violations.

At the moment, some of the solutions to this problem are being advocated more by pagans than Christians. This is not because the Bible calls for the large amount of jailing advocated by many Christians, but because on certain issues the pagans are acting more Christian than many Christians!

The Bible calls for no jails! And this is not just because the Old Testament calls for the death penalty for many offenses. For a great many crimes, the Old Testament is far more lenient than U.S. law. And this is without any resort to the calls for forgiveness found in the New Testament.

Consider the case of theft. A thief was not automatically confined. Restitution was sufficient. The amount depended on what was stolen. It was 5-1 for cattle, 4-1 for sheep, if the animals in question were killed. [Ex 22:1-9] Otherwise paying back double was sufficient. Paying back double was sufficient for other theft in general.

That's it!

Compare this with "30 days for shoplifting," or the jail sentence recently handed out to Martha Stewart. In either case, paying back double would be sufficient under Biblical law. It is only in the case where the thief does not have the funds to make restitution is there further punishment. In this case the thief was to be sold.

1. *If a man shall steal an ox, or a sheep, and kill it, or sell it; he shall restore five oxen for an ox, and four sheep for a sheep.*
2. *If a thief be found breaking up, and be smitten that he die, there shall no blood be shed for him.*
3. *If the sun be risen upon him, there shall be blood shed for him; for he should make full restitution; if he have nothing, then he shall be sold for his theft.*
4. *If the theft be certainly found in his hand alive, whether it be ox, or ass, or sheep; he shall restore double.*
5. *If a man shall cause a field or vineyard to be eaten, and shall put in his beast, and shall feed in another man's field; of the best of his own field, and of the best of his own vineyard, shall he make restitution.*
6. *If fire break out, and catch in thorns, so that the stacks of corn, or the standing corn, or the field, be consumed therewith; he that kindled the fire shall surely make restitution.*
7. *If a man shall deliver unto his neighbour money or stuff to keep, and it be stolen out of the man's house; if the thief be found, let him pay double.*
8. *If the thief be not found, then the master of the house shall be brought unto the judges, to see whether he have put his hand unto his neighbour's goods.*
9. *For all manner of trespass, whether it be for ox, for ass, for sheep, for raiment, or for any manner of lost thing which another challengeth to be his, the cause of both parties shall come before the judges; and whom the judges shall condemn, he shall pay double unto his neighbour.*

--Exodus 22

Ah! You might say. Being sold is the same as imprisonment!

7. If there be among you a poor man of one of thy brethren within any of thy gates in thy land which the Lord thy God giveth thee, thou shalt not harden thine heart, nor shut thine hand from thy poor brother:

8. But thou shalt open thine hand wide unto him, and shalt surely lend him sufficient for his need, in that which he wanteth.

9. Beware that there be not a thought in thy wicked heart, saying, The seventh year, the year of release, is at hand; and thine eye be evil against thy poor brother, and thou givest him nought; and he cry unto the Lord against thee, and it be sin unto thee.

10. Thou shalt surely give him, and thine heart shall not be grieved when thou givest unto him: because that for this thing the Lord thy God shall bless thee in all thy works, and in all that thou puttest thine hand unto.

11. For the poor shall never cease out of the land: therefore I command thee, saying, Thou shalt open thine hand wide unto thy brother, to thy poor, and to thy needy, in thy land.

12. And if thy brother, an Hebrew man, or an Hebrew woman, be sold unto thee, and serve thee six years; then in the seventh year thou shalt let him go free from thee.

13. And when thou sendest him out free from thee, thou shalt not let him go away empty:

14. Thou shalt furnish him liberally out of thy flock, and out of thy floor, and out of thy winepress: of that wherewith the Lord thy God hath blessed thee thou shalt give unto him.

--Deuteronomy 15

15. Thou shalt not deliver unto his master the servant which is escaped from his master unto thee:

16. He shall dwell with thee, even among you, in that place which he shall choose in one of thy gates, where it liketh him best: thou shalt not oppress him.

--Deuteronomy 23

someone with that degree of poverty, servitude might be preferable to homelessness [see Ruth chapter 2]. Further, at the end of one's term of service, the master was to supply wealth on the way out – capital for starting afresh [Deut 15:12-15]. Compare that to how we dump prisoners out on the street with little choice other than poverty or returning to a life of crime.

We have only touched the surface as to why we have so many people in jail, and why our crime rate is so high. Thieves and death row inmates are only a fraction of our excess jail population. There is another cause, one which has beginnings nearly a century ago, but began to take off during the Reagan years. According to the Bureau of Justice, we have gone from about 320,000 people in prison in 1980 to 1.4 million in 2003.

No, it was not. Inability to pay back restitution was just another debt. Let us look at the rules for debt servitude. Servitude could be no longer than six years [Ex 21:2, Deut. 15:12]. Other parts of the Law list every seven years as a year of release [Deut 15:1, 31:10]. So much for “three strikes and you are out” leading to life imprisonment. Yes, six years is a long time, but this was not imprisonment. It was more like serfdom. A married servant brought his family with him [Ex. 21:3]! No crowded jail cells with rampant homosexual rape! No wives and children deprived of support.

Yes, servitude could be harsh. Masters did have the right to corporal punishment [Ex 21:21]. This punishment was limited. Excess, such as knocking out a tooth or eye resulted in freedom for the servant [21:26] and killing a servant was punishable [21:20]. That said, debt servants were not to be treated as outright slaves [Lev 25: 37-43], but as employees. Skeptics might dismiss this quote as a feel-good statement, easily ignored. They would be right but for this provision: it was illegal to return an escaped slave to his master [Deut. 23:15]!

One might ask why anyone would remain a servant if escape were legal. Remember, that such servitude was limited to those who could not pay. For

# The American Police State

The United States is turning into a Third World country. Warrantless searches, paid testimony, and confessions through intimidation (plea bargaining) have become rampant.

Police departments have taken to outright theft of property using the mechanism of “civil asset forfeiture.” Poorer neighborhoods are being turned into literal war zones. Respect for the laws of the land has sunk to the point where people choose which laws they want to obey when they can get away with it, without guilt.

The main cause for this breakdown in our legal system is the War on Drugs. Drug dealing is extremely hard to eliminate through police tactics because when drugs are used responsibly there is no victim to report the crime. Therefore, warrantless searches, spying, paid informants and the like are necessary to even attempt to reduce illegal drug use. Further, unlike theft or violence, there is a large fraction of the populace who do not consider drug consumption to be a criminal act, so law enforcement officers fail to get full support from the community. It is for these reasons – not the desire to get high – that Libertarians insist on ending the Drug War, despite the high political cost.

39. *The one lamb thou shalt offer in the morning; and the other lamb thou shalt offer at even:*

40. *And with the one lamb a tenth deal of flour mingled with the fourth part of an hin of beaten oil; and the fourth part of an hin of wine for a drink offering.*

--Exodus 29

22. *Thou shalt truly tithe all the increase of thy seed, that the field bringeth forth year by year.*

23. *And thou shalt eat before the Lord thy God, in the place which he shall choose to place his name there, the tithe of thy corn, of thy wine, and of thine oil, and the firstlings of thy herds and of thy flocks; that thou mayest learn to fear the Lord thy God always.*

24. *And if the way be too long for thee, so that thou art not able to carry it; or if the place be too far from thee, which the Lord thy God shall choose to set his name there, when the Lord thy God hath blessed thee:*

25. *Then shalt thou turn it into money, and bind up the money in thine hand, and shalt go unto the place which the Lord thy God shall choose:*

26. *And thou shalt bestow that money for whatsoever thy soul lusteth after, for oxen, or for sheep, or for wine, or for strong drink, or for whatsoever thy soul desireth: and thou shalt eat there before the Lord thy God, and thou shalt rejoice, thou, and thine household,*

--Deuteronomy 14

Alas, this position causes Libertarians lose a lot of votes from many Christians. Christians rightly want to see a more moral society and there are many instances where recreational drug use causes people to fall into sin. But is it sin itself? The distinction is important. Jesus lists money as a thing that leads people into sin, but banning money would be a disaster! And there is no call in the Bible to do so. The call is for Christians to control their love of money. Likewise, Jesus warned against looking with desire at a woman who is not your wife. Does this mean that Christians should mandate burkhas?

So should Christians treat drug use as an issue of personal morality, leaving each person to choose which drugs to enjoy? Or do Christians have a mandate to force others to have more self-control by taking away substances that can weaken self-control? Do Christians have the mandate to do this even though this requires a great deal of violence to accomplish even tiny amounts of success?

Let's go back to the time when God did call for his people to enforce quite a bit of personal morality in order to create a nation to be an example to the rest of the world. What did God say then?

In my search of the Bible I can find only two mind-altering drugs explicitly mentioned: mandrake and alcohol. Mandrake is mentioned only as an aphrodisiac in Genesis 30. Mandrake is also mentioned in passing in the Song of Solomon [7:13]. Alcoholic beverages, on the other hand, are mentioned...just about everywhere. There may have been other mind-altering drugs implicitly mentioned in the "spiced wine" that is in some Bible versions translated as "drugged wine." If such wine was in fact drugged, my case is even stronger that we should treat all mind-altering herbs in the same fashion as alcohol.

As to what the Bible says about alcoholic beverages, it says a lot, both good and bad! If you think of alcohol as a drug, then the Holy Land was a major drug producing region. Grapes were a major crop. Wine-presses were standard household items. Wine was a common beverage. It was praised repeatedly.

Was wine production legal? You bet! It was mandatory!! No, not everyone had to produce wine, but someone had to because wine was part of several mandated sacrifices [Ex. 29:40, Num. 28:7].

Wine is listed as a blessing to be granted to the people of Israel should they obey the commandments [Deut 7:12-14, 23:27-28]. Wine deprivation is listed as one of the many bad consequences of not obeying the commandments [Deut 28:30, 28:39].

Wine drinking was a standard part of religious celebrations. You could use money from the second tithe to purchase wine and/or "strong drink" when you went to the three annual gatherings. This was wine for enjoyment, not pouring on a sacrifice [Deut 14:22-26].

Even the poor were to be given wine. When a debt slave was to be released, he was to be given food and wine on exit [Deut. 15:14].

Were there restrictions on alcoholic beverage consumption? Yes, but they were few and reasonable. Priests were not to drink

*12. Wherefore it shall come to pass, if ye hearken to these judgments, and keep, and do them, that the Lord thy God shall keep unto thee the covenant and the mercy which he sware unto thy fathers:*

*13. And he will love thee, and bless thee, and multiply thee: he will also bless the fruit of thy womb, and the fruit of thy land, thy corn, and thy wine, and thine oil, the increase of thy kine, and the flocks of thy sheep, in the land which he sware unto thy fathers to give thee.*

--Deuteronomy 7

*13. And it shall come to pass, if ye shall hearken diligently unto my commandments which I command you this day, to love the Lord your God, and to serve him with all your heart and with all your soul,*

*14. That I will give you the rain of your land in his due season, the first rain and the latter rain, that thou mayest gather in thy corn, and thy wine, and thine oil.*

--Deuteronomy 11

*15. But it shall come to pass, if thou wilt not hearken unto the voice of the Lord thy God, to observe to do all his commandments and his statutes which I command thee this day; that all these curses shall come upon thee, and overtake thee:*

*16. Cursed shalt thou be in the city, and cursed shalt thou be in the field.*

*17. Cursed shall be thy basket and thy store.*

*18. Cursed shall be the fruit of thy body, and the fruit of thy land, the increase of thy kine, and the flocks of thy sheep.*

...

*30. Thou shalt betroth a wife, and another man shall lie with her: thou shalt build an house, and thou shalt not dwell therein: thou shalt plant a vineyard, and shalt not gather the grapes thereof.*

...

*38. Thou shalt carry much seed out into the field, and shalt gather but little in; for the locust shall consume it.*

*39. Thou shalt plant vineyards, and dress them, but shalt neither drink of the wine, nor gather the grapes; for the worms shall eat them.*

--Deuteronomy 28

wine while serving at the altar [Lev. 10:9]. While I can find no law as such, it appears that it was also bad form for lay people to be buzzed when attending religious services. At least, Eli accuses Hannah of being drunk when she makes her silent prayer [1 Samuel 1:10-17].

However, priests were allowed alcohol at other times. The priests were to be given wine offerings from the people [Num. 18:6-12]! And as I already pointed out, the people were encouraged to have wine at the three major feasts.

Yes, there were those who did dedicate themselves to the Lord by denying themselves alcoholic beverages. This is the Nazarite vow given in Numbers 6 [see entire chapter]. Note that this vow included all grape products, fermented and unfermented. Those who drink pasteurized grape juice are not following the Nazarite discipline.

Usually the Nazarite vow was of limited duration. The Bible specifically mentions wine being allowed after the end of the term of the vow. There were a few exceptions mentioned. Sampson was a Nazarite for life [Judges 13:7]. Samuel may have been as well – at least he is mentioned as never having a razor touching his head (another component of the Nazarite vow). John the Baptist may have been as well; he never drank wine or strong drink [Luke 1:15].

I have no quarrel with those Christians who desire to add this restriction to themselves as an extra dedication to God. And for those who have trouble with alcoholism, such abstinence is mandated under the command to avoid things which cause one to fall into sin. I will quarrel with those who think it necessary for being a Christian in general, and have a greater quarrel yet with those who would impose this discipline on others through the might of the state. The Nazarite vow (with a few exceptions) was a voluntary vow of special dedication, not a general prohibition on enjoying that mind-altering substance known as alcohol.

This is not to say that the Bible endorses drunkenness. Proverbs makes it clear that excess wine (and food!) is a bad thing [Proverbs 23:21-22]. The prophets use drunkenness as a metaphor in many unpleasant analogies [Isaiah 19:24, 24:20,28;1,19:8-10, Jer. 25:25-30,48:25-26,51:6-9]. St. Paul goes so far to say that a drunkard cannot enter the Kingdom of God [1 Corinthians 6:10].

But there was no enforceable law against being a drunkard, per se. The only punishable offense that mentions drunkenness is actually a law against rebellious teenagers [Deut 21:18-21]. The violation was that of disobedience to parents, not that of drunkenness per se. And note that gluttony is mentioned in the same breath as drunkenness. Shall we take this as a mandate to outlaw being fat? Shall we outlaw food?

Since there is no mention of other drugs, the only Biblical guidance I can find for recreational drug use and production is to generalize the treatment of alcohol. And here, legalization is the clear mandate. Moderation and/or abstinence are personal choices, not points of law.

One can quibble that I am stretching an analogy by suggesting treating recreational drugs in general the same as for wine and strong drink. Well, the alternative is to state that the Law of Moses is completely silent on the subject. The only other way I could extract a ruling would be to extend the prohibition on sorcery to the use of all mind-altering drugs. While it is true that some modern sorcerers use such drugs, it is also true by far that most such drug use is not for magical purposes. (And to extend such a prohibition outside the Holy Land violates the mandate Jesus gave his followers: to peaceably make converts of the heathen, not kill them.)

If we consider the Law of Moses to be silent on the subject, do we as Christians and Jews

have the right to make up new laws to handle the modern problem of drug abuse? The Bible indicates otherwise. Consider from Deuteronomy 4 and Deuteronomy 12:

1. *"Now, O Israel, listen to the statutes and the judgments which I am teaching you to perform, so that you may live and go in and take possession of the land which the LORD, the God of your fathers, is giving you."*

2. *"You shall not add to the word which I am commanding you, nor take away from it, that you may keep the commandments of the LORD your God which I command you."*

--Deuteronomy 4

32. *"Whatever I command you, you shall be careful to do; you shall not add to nor take away from it."*

--Deuteronomy 12

If I am reading this correctly, adding to the Law is a sin!

But we are faced with a crisis! Right? Ending drug prohibition will lead to societal breakdown, and yet further moral corruption, and we have enough of that already! Right?

Well, let's look at the data. There was a time when the English speaking world embraced drug legalization. This time was known as The Victorian Era, a time noted for morality and family values. During this era the British created the largest, most benevolent empire in history. They stomped out the world slave trade. The British and Americans led the Industrial Revolution, beginning the transition to near-universal wealth that First World countries now experience. During this time the British were able to do away with firearms in the hands of the police.

Contrast this to later times of drug prohibition. When the U.S. made alcohol illegal, it got the Roaring 20s, a time noted for its immorality and crime. The modern War on Drugs coincides with a time of high crime and family breakdown.

Yes, we do have problems with moral breakdown and excessive drug use, but there are more peaceful solutions, Christian solutions, to the problem. We need to rethink our welfare system, which currently punishes work, thrift, and marriage, instead of providing a true safety net [see "God's Welfare System"]. We need to take away the schools from the bureaucrats; life in a public school can be far more numbing to the mind and spirit than most recreational drugs. We need to voluntarily turn off our televisions and live. And perhaps we should eat real food, instead of the extracted junk that is so commonplace; it is possible that the excessive craving for drugs that is so common today is due in part to bad nutrition.

# Harlotry

**L**ibertarians call for legalizing prostitution, claiming that it is a “victimless crime;” that is, no one is forced to buy the services of a prostitute. (Forcing people to be prostitutes is another matter entirely, and libertarians would agree entirely with moralists on this issue.)

Legal prostitution!? Should Christians tolerate that?? Maybe so. Let us look at what the Bible Law says. Searching for quotes on “whore” and “harlot” from the Law books we find:

*Do not prostitute thy daughter, to cause her to be a whore; lest the land fall to whoredom, and the land become full of wickedness.*

--Levitcus 19:29

OK, so parents cannot sell their daughter’s sexuality. Libertarians would definitely agree with that principle. Note that this prohibition is on the parent, not the prostitute.

*And the daughter of any priest, if she profane herself by playing the whore, she profaneth her father: she shall be burnt with fire.*

--Levitcus 21:9

Yikes! That’s a severe punishment! But note that this is applied to specifically to priest’s daughters. The Levites had special restrictions; this prohibition does not necessarily apply to laypeople. However from Deut 22:

13. *If any man take a wife, and go in unto her, and hate her,*  
14. *And give occasions of speech against her, and bring up an evil name upon her, and say, I took this woman, and when I came to her, I found her not a maid:*  
15. *Then shall the father of the damsel, and her mother, take and bring forth the tokens of the damsel’s virginity unto the elders of the city in the gate:*  
16. *And the damsel’s father shall say unto the elders, I gave my daughter unto this man to wife, and he hateth her;*  
17. *And, lo, he hath given occasions of speech against her, saying, I found not thy daughter a maid; and yet these are the tokens of my daughter’s virginity. And they shall spread the cloth before the elders of the city.*  
18. *And the elders of that city shall take that man and chastise him;*  
19. *And they shall amerce him in an hundred shekels of silver, and give them unto the father of the damsel, because he hath brought up an evil name upon a virgin of Israel: and she shall be his wife; he may not put her away all his days.*  
20. *But if this thing be true, and the tokens of virginity be not found for the damsel:*  
21. *Then they shall bring out the damsel to the door of her father’s house, and the men of her city shall stone her with stones that she die: because she hath wrought folly in Israel, to play the whore in her father’s house: so shalt thou put evil away from among you.*

--Deuteronomy 22

Well, here we do have what appears to be a blanket penalty for harlotry, and the penalty is death. By this standard U.S. law is merciful. But I will quibble and note that the penalty was for playing the whore in her father’s house. Note that “playing the whore” has no reference to

payment; this is about fornication in general—while still living with the parents. To do so was disrespect of parents and fraud to future husband. Disrespect to parents was a death penalty offense in general. The passage above does not necessarily generalize to prostitution/fornication in general. For example, what of a widow, divorcee, or orphaned woman?

Let us go back to the prohibitions on priests:

A priest must take a virgin for a wife. Harlots are on the forbidden list along with widows and divorcees. Why does there need to be a mention of harlots if harlots in general are to be disposed of? A redundancy? Or are some harlots to be spared.

*13. And he [priest] shall take a wife in her virginity.*

*14. A widow, or a divorced woman, or profane, or an harlot, these shall he not take: but he shall take a virgin of his own people to wife.*

--Leviticus 21

Here is a passage that looks general, though there is no penalty mentioned.

*17. There shall be no whore of the daughters of Israel, nor a Sodomite of the sons of Israel.*

*18. Thou shalt not bring the hire of a whore, or the price of a dog, into the house of the Lord thy God for any vow: for even both these are abomination unto the Lord thy God.*

--Deuteronomy 23

Well, 23:17 does look like a blanket prohibition, however, the word translated in the King James as “whore” is a different word than elsewhere: q@deshah vs. zanah according to my Online Bible. The New King James translates this as a ritual prostitute. The surrounding pagans were using temple prostitutes, both male and female to help fund their temples. This was forbidden to the Hebrews.

Admittedly, it looks like I am loophole searching to back my claim that the physical enforcement against prostitutes was not general. If I were to stick with just the law books, my case would indeed be weak. The law books are ambiguous on the subject. Given the general negative view on sex outside of marriage, it is easy to extrapolate the other way. My own wisdom on interpreting the Law is limited. Let us therefore consult with someone who had more wisdom, King Solomon:

*16. Then came there two women, that were harlots, unto the king, and stood before him.*

*17. And the one woman said, O my lord, I and this woman dwell in one house; and I was delivered of a child with her in the house.*

*18. And it came to pass the third day after that I was delivered, that this woman was delivered also: and we were together; there was no stranger with us in the house, save we two in the house.*

*19. And this woman's child died in the night; because she overlaid it.*

*20. And she arose at midnight, and took my son from beside me, while thine handmaid slept, and laid it in her bosom, and laid her dead child in my bosom.*

*21. And when I rose in the morning to give my child suck, behold, it was dead: but when I had considered it in the morning, behold, it was not my son, which I did bear.*

22. And the other woman said, Nay; but the living is my son, and the dead is thy son. And this said, No; but the dead is thy son, and the living is my son. Thus they spake before the king.

23. Then said the king, The one saith, This is my son that liveth, and thy son is the dead: and the other saith, Nay; but thy son is the dead, and my son is the living.

24. And the king said, Bring me a sword. And they brought a sword before the king.

25. And the king said, Divide the living child in two, and give half to the one, and half to the other.

26. Then spake the woman whose the living child was unto the king, for her bowels yearned upon her son, and she said, O my lord, give her the living child, and in no wise slay it. But the other said, Let it be neither mine nor thine, but divide it.

27. Then the king answered and said, Give her the living child, and in no wise slay it: she is the mother thereof.

28. And all Israel heard of the judgment which the king had judged; and they feared the king: for they saw that the wisdom of God was in him, to do judgment.

--1 Kings 3

This case is listed right after God grants Solomon wisdom; Solomon's judgment here is given as an example of wisdom. Solomon first demonstrates wisdom by resolving a dispute between two harlots! If harlots in general were to be stoned to death, then there would have been no need to resolve this dispute. Solomon should have had them executed. But he didn't, so it appears that under some circumstances harlotry was indeed legal.

Or consider Hosea 1:

*The beginning of the word of the Lord by Hosea. And the Lord said to Hosea, Go, take unto thee a wife of whoredoms and children of whoredoms: for the land hath committed great whoredom, departing from the Lord.*

--Hosea 1:2

God commands a prophet to marry a whore! This would be strange if such a woman was under a death penalty.

It is interesting to note why Hosea is commanded to do so. It was to be a metaphor for the fact that the land had committed whoredom; that is, the Hebrews had gone after other gods. Throughout the Bible, whoredom is used as a metaphor to describe when God's people dabble in other religions. This goes all the way back to Exodus:

This metaphor extends throughout the prophets. For people of God to dabble in other religions is like a wife that sells her body despite the fact that her husband loves and takes care of her. God describes himself in terms of a very jealous husband in these passages.

Note that harlots under a death sentence in the Law were all women who had alternative sources of income: daughters living with parents, Levites (they get tithes), and wives.

All this is not to suggest that prostitution or fornication are moral; it is merely to suggest that we are not given a mandate to prosecute. And this is before taking into account the New Testament, which calls for a great deal more forgiveness to sinners.

## Those Pesky Lawsuits

You hear it in the news all the time: ridiculous lawsuits granting “victims” millions of dollars for trivial grievances. Conversely, you hear of rich people getting away with crimes that would result in jail time were the perpetrator poor. The Bible has some interesting answers to such injustice.

*Ye shall do no unrighteousness in judgment: thou shalt not respect the person of the poor, nor honour the person of the mighty: but in righteousness shalt thou judge thy neighbour.*

--Levitcus 19:15

This sentiment can also be found in Ex. 23:1-9, Deut. 1:16-18, and Deut 16:18-20.

Our justice system is a far cry from this ideal. Injustice is meted out to both rich and poor because we do not obey this principle.

I have listened to judges running for office. They generally say nothing but platitudes in order to avoid prejudicing future cases. But one of the favorite platitudes is that they will judge the person instead of the crime. This is in direct violation of Biblical principles! According to the Bible, punishment should be based on the crime, not the person’s background. An upstanding member of society should get the same treatment as someone from the ghetto. Whether someone had a bad childhood should have nothing to do with it. Ditto for prior convictions. Whether a crime was part of a fraternity prank or part of a criminal career should be irrelevant. (If the mandated punishment is too much for the frat boy, then it is too much for the gang member.)

On the other hand, those who are well off are more vulnerable to damage lawsuits. All too often doctors and big corporations are seen as a source of money for poor litigants by juries and personal injury lawyers. We hear regularly on the news punitive damage awards that are ridiculously high, due to the wealth of the perpetrator instead of the magnitude of the proven damage. The result is higher doctor bills, and stupid warning messages on all consumer products. (Then again, what doesn’t get enough press, conversely, is the number of people who fail to get deserved compensation by big corporations because the big corporations can hire better lawyers. This is also injustice.)

We have a conundrum: if we set punitive damages too low, the rich and powerful can endanger others with impunity. If we set them too high, smaller businesses cannot afford liability coverage. This would seem to argue for punishment based on wealth in order to have proper deterrence. But if we do that, we get opportunistic lawsuits.

The Biblical approach to this quandary is both interesting and disturbing (Ex 21):

12. *He that smiteth a man, so that he die, shall be surely put to death.*
13. *And if a man lie not in wait, but God deliver him into his hand; then I will appoint thee a place whither he shall flee.*
14. *But if a man come presumptuously upon his neighbour, to slay him with guile; thou shalt take him from mine altar, that he may die.*
15. *And he that smiteth his father, or his mother, shall be surely put to death.*

16. And he that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death.
17. And he that curseth his father, or his mother, shall surely be put to death.
18. And if men strive together, and one smite another with a stone, or with his fist, and he die not, but keepeth his bed:
19. If he rise again, and walk abroad upon his staff, then shall he that smote him be quit: only he shall pay for the loss of his time, and shall cause him to be thoroughly healed.
20. And if a man smite his servant, or his maid, with a rod, and he die under his hand; he shall be surely punished.
21. Notwithstanding, if he continue a day or two, he shall not be punished: for he is his money.
22. If men strive, and hurt a woman with child, so that her fruit depart from her, and yet no mischief follow: he shall be surely punished, according as the woman's husband will lay upon him; and he shall pay as the judges determine.
23. And if any mischief follow, then thou shalt give life for life,
24. Eye for eye, tooth for tooth, hand for hand, foot for foot,
25. Burning for burning, wound for wound, stripe for stripe.

--Exodus 21

Manslaughter was a death penalty offense. Causing injury was an offense that required similar injury. It is one thing to sue for money, quite another to sue for retaliatory injury or even death.

However, there were circumstances where the modern punitive damages were allowed. (Ex 21 again):

28. If an ox gore a man or a woman, that they die: then the ox shall be surely stoned, and his flesh shall not be eaten; but the owner of the ox shall be quit.
29. But if the ox were wont to push with his horn in time past, and it hath been testified to his owner, and he hath not kept him in, but that he hath killed a man or a woman; the ox shall be stoned, and his owner also shall be put to death.
30. If there be laid on him a sum of money, then he shall give for the ransom of his life whatsoever is laid upon him.
31. Whether he have gored a son, or have gored a daughter, according to this judgment shall it be done unto him.
32. If the ox shall push a manservant or a maidservant; he shall give unto their master thirty shekels of silver, and the ox shall be stoned.

--Exodus 21

Perhaps the ox goring scenario is the proper precedent for the modern coffee cup scenario. If so, then the court could assess punitive damages as was done, and if those responsible considered the monetary damages excessive, then they could refuse the ransom and opt for "eye for eye", in this case subjecting themselves to the hot coffee treatment.

But note that elsewhere the idea of monetary compensation for life is deprecated. Numbers 35:

- 31. Moreover ye shall take no satisfaction for the life of a murderer, which is guilty of death: but he shall be surely put to death.*
- 32. And ye shall take no satisfaction for him that is fled to the city of his refuge, that he should come again to dwell in the land, until the death of the priest.*
- 33. So ye shall not pollute the land wherein ye are: for blood it defileth the land: and the land cannot be cleansed of the blood that is shed therein, but by the blood of him that shed it.*
- 34. Defile not therefore the land which ye shall inhabit, wherein I dwell: for I the Lord dwell among the children of Israel.*

--Numbers 35

The New American Standard Bible translates "satisfaction" as "ransom" in verses 31 and 32. In other words monetary punishment is not worthy for the loss of a life, even in the case of manslaughter.

The references to cities of refuge are quite interesting. They are described in detail in Numbers 35. I will have you look it up since the quote is long. The basic idea is that someone guilty of manslaughter could be legally killed by an "avenger," presumably a member or agent of the victim's family. However, if the one who committed manslaughter were to flee to one of six cities of refuge, he could not legally be killed unless proven to be an intentional murderer. But this protection only applied as long as the manslayer stayed in the city of refuge. This condition lasted until the death of the chief priest, so I presume that this averaged out as a decade or two. After the death of the chief priest, this internal exile ended and the manslayer could safely return home.

I do think we ought to consider at least some of these ideas for modern application. Our legal system is torn several different ways regarding risky behaviors. We hesitate to fully harm those who cause harm due to their recklessness; eye for eye seems barbaric to most these days. But because of this, we end up with a slew of safety regulations and laws that are very confining. By taking away full responsibility, we lose significant amounts of freedom.

The city of refuge concept is an interesting alternative to fines or outright imprisonment for accidental deaths caused by reckless behavior, such as drunk driving. Our system of safety regulation is not objective. Different people lose different amounts of driving skills due to blood alcohol levels. Some impaired drivers properly drive slowly and carefully when impaired. They are no more dangerous than the aged who are just as impaired when sober. On the other hand, some people drive more aggressively when drunk; they are the truly dangerous. By having a real punishment, drinkers can judge for themselves what is safe and take true responsibility for their choices. Exile to a city of refuge is a punishment that modern juries should be able to stomach, so the threat of such punishment would be real. Accidental death could be punished by a life sentence of such exile – on the order of 20 years or more. Lesser damages could result in shorter terms.

# The Rights of the Accused

Long before there was the U.S. Bill of Rights, there were powerful protections on the accused. The Biblical punishments could be very harsh at times, but there were some powerful checks as well.

15. *One witness shall not rise up against a man for any iniquity, or for any sin, in any sin that he sinneth: at the mouth of two witnesses, or at the mouth of three witnesses, shall the matter be established.*
16. *If a false witness rise up against any man to testify against him that which is wrong;*
17. *Then both the men, between whom the controversy is, shall stand before the Lord, before the priests and the judges, which shall be in those days;*
18. *And the judges shall make diligent inquisition: and, behold, if the witness be a false witness, and hath testified falsely against his brother;*
19. *Then shall ye do unto him, as he had thought to have done unto his brother: so shalt thou put the evil away from among you.*
20. *And those which remain shall hear, and fear, and shall henceforth commit no more any such evil among you.*
21. *And thine eye shall not pity; but life shall go for life, eye for eye, tooth for tooth, hand for hand, foot for foot.*

--Deuteronomy 19

Well, no one police officer or other witness would be able to convict on just his own word under this standard. It requires at least two witnesses. And look at the penalty for perjury! This would be quite a disincentive against corruption for criminal matters. It would also be quite a disincentive in civil matters as well if we applied this idea to frivolous lawsuits and naming defendants who are not truly at fault but merely have deep pockets.

18. *Judges and officers shalt thou make thee in all thy gates, which the Lord thy God giveth thee, throughout thy tribes: and they shall judge the people with just judgment.*
19. *Thou shalt not wrest judgment; thou shalt not respect persons, neither take a gift: for a gift doth blind the eyes of the wise, and pervert the words of the righteous.*
20. *That which is altogether just shalt thou follow, that thou mayest live, and inherit the land which the Lord thy God giveth thee.*

-- Deuteronomy 16

I wonder what the “gift” in verse 19 refers to. Is it referring just to gifts to the judges? Or does this extend to witnesses as well? If the latter, I would note that we have a HUGE violation of this principle going on in our judicial system: plea bargaining. It has become routine to allow lesser criminals to reduce the accusation against them in return for testifying against those with whom they worked. This is a huge bribe! Time away from jail is valuable!

Even if verse 19 just refers to judges, plea bargaining is a gross violation of other principles. We have punishments no longer based on the magnitude of the crime. We also bypass the need for credible witnesses in many cases, since the plea bargaining process can be used to intimidate people into confessions.

# It Was the Holy Land

I have shown that there are libertarian elements within the Law of Moses. However, the Law was not completely libertarian. There was no freedom of religion; to worship other gods, profane the Sabbath, be a homosexual, or to channel spirits was to face death. These restrictions fell on both Hebrews and gentiles

- 15. One ordinance shall be both for you of the congregation, and also for the stranger that sojourneth with you, an ordinance for ever in your generations: as ye are, so shall the stranger be before the Lord.*
- 16. One law and one manner shall be for you, and for the stranger that sojourneth with you. ...*
- 29. Ye shall have one law for him that sinneth through ignorance, both for him that is born among the children of Israel, and for the stranger that sojourneth among them.*
- 30. But the soul that doeth ought presumptuously, whether he be born in the land, or a stranger, the same reproacheth the Lord; and that soul shall be cut off from among his people.*
- 31. Because he hath despised the word of the Lord, and hath broken his commandment, that soul shall utterly be cut off; his iniquity shall be upon him.*

--Numbers 15

This raises an important and disturbing question: should modern Christians and Jews call the enforcement of these laws today? Is allowing complete freedom of religion a sin?

For Christianity we can make a strong case for a “no” answer by looking at the New Testament. Jesus was largely a pacifist in his first earthly visit and called on his disciples to be likewise. There was no call to sweep across the world and smash idols and kill witches. Early Christianity was a peaceful movement using love and charity to create converts – converts made up of people who had been practicing idol worship and witchcraft.

But I can make a case for “no” even with just the Old Testament. It is important to remember that this enforcement was to take place in the Holy Land. This was a special place on earth to be an example to the rest of the world. That which is holy has extra restrictions and extra blessings. The Levites had extra restriction placed upon them [cf. Lev. 10, Lev. 21] but also received the first tithe from the rest of the people.

Notice that I said “land” and not just people. The ancient Hebrews did have a mandate to destroy idol-worshippers who dwelt in the holy land. This seems unfair on the surface, but it is interesting to note Genesis 15.

- 13. And he said unto Abram, Know of a surety that thy seed shall be a stranger in a land that is not theirs, and shall serve them; and they shall afflict them four hundred years;*
- 14. And also that nation, whom they shall serve, will I judge: and afterward shall they come out with great substance.*
- 15. And thou shalt go to thy fathers in peace; thou shalt be buried in a good old age.*
- 16. But in the fourth generation they shall come hither again: for the iniquity of the Amorites is not yet full.*

--Genesis 15

Also Deuteronomy 9:

4. Speak not thou in thine heart, after that the Lord thy God hath cast them out from before thee, saying, For my righteousness the Lord hath brought me in to possess this land: but for the wickedness of these nations the Lord doth drive them out from before thee.
5. Not for thy righteousness, or for the uprightness of thine heart, dost thou go to possess their land: but for the wickedness of these nations the Lord thy God doth drive them out from before thee, and that he may perform the word which the Lord sware unto thy fathers, Abraham, Isaac, and Jacob.
6. Understand therefore, that the Lord thy God giveth thee not this good land to possess it for thy righteousness; for thou art a stiffnecked people.

--Deuteronomy 9

That is, the descendants of Abraham had to leave the Holy Land in order to allow the Amorites to perform sufficient iniquity to justify their extermination. The mandate to destroy idol-worshippers did not extend to all nations of the world.

Leviticus 18 lists [some of?] the iniquities that the Amorites performed to justify their extermination. Leviticus lists various forms of incest and then the following

18. Neither shalt thou take a wife to her sister, to vex her, to uncover her nakedness, beside the other in her life time.
19. Also thou shalt not approach unto a woman to uncover her nakedness, as long as she is put apart for her uncleanness.
20. Moreover thou shalt not lie carnally with thy neighbour's wife, to defile thyself with her.
21. And thou shalt not let any of thy seed pass through the fire to Molech, neither shalt thou profane the name of thy God: I am the Lord.
22. Thou shalt not lie with mankind, as with womankind: it is abomination.
23. Neither shalt thou lie with any beast to defile thyself therewith: neither shall any woman stand before a beast to lie down thereto: it is confusion.
24. Defile not ye yourselves in any of these things: for in all these the nations are defiled which I cast out before you:
25. And the land is defiled: therefore I do visit the iniquity thereof upon it, and the land itself vomiteth out her inhabitants.
26. Ye shall therefore keep my statutes and my judgments, and shall not commit any of these abominations; neither any of your own nation, nor any stranger that sojourneth among you:
27. (For all these abominations have the men of the land done, which were before you, and the land is defiled;)
28. That the land spue not you out also, when ye defile it, as it spued out the nations that were before you.

--Leviticus 18

Note that even non-Hebrews were responsible for these sins, so one can make an Old Testament case for enforcement of laws against incest, homosexuality, and child sacrifice. If we categorize abortion as similar to child sacrifice (“pass through the fire to Molech”) then the Religious Right does have a very good case for laws against abortion. The Religious Right’s objection to gay marriage is also supported by the above.

So I cannot make a case for the complete current Libertarian Party platform using the Old Testament. In fact, I am currently lobbying hard to get the legal abortion language out of the Libertarian Party platform. [See [www.ReformTheLP.org](http://www.ReformTheLP.org).]

But I can make a case for a government that is far more libertarian than the one that we live under today. I would even go so far to say the LP platform, imperfect though it is, is far closer to the Christian mandate than the platforms of either the Republican or Democratic parties.

And this is before resorting to the calls for mercy and forgiveness found in the New Testament. I intend to look at the New Testament later in an essay entitled “The Power of Mercy.” Stay tuned.

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