

'Handing over to Satan': an Explanation of 1 Cor. 5:1-7

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Preamble

I had long been worried about 1 Cor. 5:1-7. Paul was trained as a lawyer, and, like Jalal-uddin Rumi centuries later, suddenly became a charismatic. The extraordinary disciplinary problem for which 1 Cor. 5:1-7 is our only evidence must have been intelligible to him and his disposal of it must have been practical in the light of contemporary facts. It does not follow that it was an example for the church to follow into eternity. And yet we have good reason for thinking that both the Corinthian epistles were intended from the first as edification for all churches, with a circulation well beyond the highly controversial congregation at Corinth. There is something extremely unpleasant about the whole affair. It is known that the passage was used for disciplinary patterns which the world has bitterly regretted. Some basic questions are raised by it: what law did Paul think he was administering, or did he disregard law entirely; did the Old Testament have much, and, if any, what bearing on his decision (he cites the Old Testament, after all); what was the role of the Second Coming of Christ in the disciplinary crisis; what was his own role; why could the church not find its way out of the situation without his help; and finally what is the logic behind the passage as it stands? My own mind has long been pre-occupied with the unpleasant question: did Paul really believe that offenders should be handed over to the state for punishment? If he did so, whose responsibility would it be to see to it

that the state took action? Would the church itself act as informer? If this was the rule, has the church inherently no criminal jurisdiction? Must it therefore be perpetually parasitic upon the state for the sake of its own integrity, though it knows that the state's standards are not those of the church? Was corruption anticipated if and when the standards of the state infiltrate the church? Was the church, founded upon Peter, inherently subject to imperfection, so that only a remnant would survive? These weighty problems pressed upon me. The outcome is not altogether agreeable, but I offer it for what it is worth for the time being. One gain at least transpires. We can be sure of the connection of Paul's ideas; and the theory upon which he relies, relative to the purposes of punishment, is consistent and, I propose, also dominical. In particular I hope to demonstrate the true reason why 'destruction of the flesh' should be related to 'saving of the spirit'. This is one respect in which the theologians, not less than legal historians, have failed to make sense of the passage ⁽¹⁾. Mediaeval ⁽²⁾, renaissance ⁽³⁾ and modern commentators are equally in the dark.

(1) 'Nicht ganz durchsichtig ist 1 K. 5,3-5': E. SCHWEIZER, in KITTEL, T.W.N.T. 6 (1965), 434. I have used E.-B. ALLO, *Saint Paul. Première épître aux Corinthiens* (Paris, 1934); E. KÄSEMANN, 'Sätze heiligen Rechts im Neuen Testament,' N.T.S. 1 (1954/5), 352f. H. v. CAMPENHAUSEN, *Ecclesiastical Authority and Spiritual Power in the Church of the First Three Centuries* (London, 1969) (trans. of *Kirchliches Amt und geistliche Vollmacht in den ersten drei Jahrhunderten*² (Tübingen, 1953)); the same, *Die Begründung kirchlicher Entscheidungen beim Apostel Paulus* (S.B. Heid. Akad. Wiss., philos.-hist. Kl., 1957, no. 2) (Heidelberg, 1957), 15; J.C. HURD, *The Origin of 1 Corinthians* (London, 1965); C.K. BARRETT, *A Commentary on the First Epistle to the Corinthians* (London, 1968); H. CONZELMANN, *Der erste Brief an die Korinther* (Göttingen, 1969); A.E. HARVEY, *Companion to the New Testament* (Oxford/Cambridge, 1970). The solution was not observed by J. KLAUSNER, *From Jesus to Paul* (London, [1943]), 471. J. DAUVILLIER at *J. Jur. Pap.* 6 (1960), 149-64. That 'judicial death' might be the answer was observed by A.J. MASON at Hastings, D.B. 4 (1902), 31, col. 2. It is not clear that 2 Cor. 2:6 refers to our man. On both 1 Cor. 5:1-5 and 1 Tim 1:20 see W. BAUER, *Rechtgläubigkeit und Ketzerei im ältesten Christentum* (Tübingen, 1964), where the view is put that Paul hardly knows heresy as it developed by the time of Justin, and that attitudes hardened between the 'Cor.' and the '1 Tim.' passages. Bauer's 1st. edn. (pp. 236f.) are quoted by C.K. BARRETT in his 'Conversion

The Text and Translation

The Greek text, which I am using, has no textual variants of any significance. There is no need to reprint it, but many readers would appreciate the Vulgate which adequately exposes all our difficulties.

Omnino auditur inter uos fornicatio, et talis fornicatio qualis nec inter gentes, ita ut uxorem patris aliquis habeat. Et uos inflati estis, et non magis luctum habuistis, ut tollatur de medio uestrum qui hoc opus fecit. Ego quidem absens corpore, praesens autem spiritu, iam indicaui ut praesens eum qui sic operatus est: in nomine Domini nostri Iesu Christi, congregatis uobis et meo spiritu, cum uirtute Domini Iesu, tradere huiusmodi Sata-nae in interitum carnis, ut spiritus saluus sit in die Domini Iesu. Non bona gloriatio uestra. Nescitis quia modicum fermentum totam massam corrumpit? Expurgate uetus fermentum, ut sitis noua conspersio, sicut estis azymi.

The translation of the Greek has been in doubt, since the punctuation is notoriously uncertain. This can be cleared up if one understands what is going on. A recent attempt fruitfully renews an old discussion⁽⁴⁾. However, unlike the writer, I am satisfied that *κέκρικα* (*iudicavi*) does govern *παράδοῦναι* (*tradere*)⁽⁵⁾. I should render the passage:

and conformity' in B. LINDARS and ORS., edd., *Christ and the Spirit in the New Testament* (C.F.D. Moule Fest.) (Cambridge, 1974) at p. 378. That there was development can be taken as certain, but that this correctly expounds the church's use of the state I doubt.

(2) Cornelius a Lapide, *ad loc.*

(3) M. POLUS, *Synopsis Criticorum aliorumque s. Scripturae Interpretum* 5 (1669), *ad loc.* H. GROTIUS' failure is particularly disappointing. No help is available from J.C. WOLFIUS, *Curae Philologicae et Criticae* 3 (Basel, 1741) (with a rich bibliography) or from J.J. WEISTENIUS, *Novum Testamentum Graecum* (Amsterdam, 1752).

(4) J. MURPHY-O'CONNOR at *Rev. Bibl.* 84 (1977), 239-45.

(5) *Παράδιδωμι* in LIDDELL-SCOTT-JONES, *Greek-English Lexicon*, s.v., meaning I, 3. BÜCHSEL at KITTEL, T.W.N.T. 2 (1960), 172, § 1. *κέκρικα* *παράδοῦναι* is to be construed like *θανατωθήσεσθαι ἐκεκρίκει*: Justin, *dial.* 102.2. *κρίνω* is used in LIDDELL-SCOTT-JONES' sense II,6 rather than III,3, though the senses shade into each other. The extraordinary play with *κέκρικα* ('I have made up my mind') at Arrian, *Epictet.* II,15 has no bearing on our passage.

"There are actually reports of fornication⁽⁶⁾ amongst you, and of such a type that is not practised even amongst the heathen⁽⁷⁾: a man is living with his father's wife. And you are elated instead of going (as you ought) into mourning⁽⁸⁾! The one who did this deed must be removed from your midst (cf. v. 13b). For I, absent though I am physically, yet present in spirit, have (as if I were on the spot) already come to a decision upon the man guilty of this act in the name of the Lord Jesus, with you assembled along with my spirit and fortified with the power⁽⁹⁾ of our Lord Jesus, to hand the said man over to Satan for the destruction⁽¹⁰⁾ of the flesh⁽¹¹⁾, so that the spirit⁽¹²⁾ may be saved on the day of the Lord. Your boasting is unlovely. Surely you know that a little leaven leavens the whole lump? Clear out the old leaven⁽¹³⁾, to be a new lump, so that you may be unleavened."

It is clear that Paul imagines the community taking corporate action (cf. Acts 18:12 ὁμοθυμαδόν), not without the spirit (i.e. inspiration) of Paul himself, who has acted (in giving this sen-

(6) The range of πορνεία is beside our present point.

(7) In fact Jews did believe that heathens made such unions, and Iranians were known to do it. Paul has in mind heathen from whom converts might be envisaged. P. JAUBERT at *J. Jur. Pap.* 6 (1959), 418.

(8) Because he is as good as dead. "lvα (as rightly conjectured by BARRETT, *op. cit.*, 122) must be taken imperatively: BAUER-ARNDT-GINGRICH, *Greek-English Lexicon of the New Testament* (1957), sense III,2 (e.g. Mk. 5:23).

(9) The power that will raise up the church (1 Cor. 6:14, cf. 2 Pet. 1:16) and sustains those who are tempted and weakened (2 Cor. 12:9-10), here figures in judgment (Ps. 54:1: δυνάμει κρίνον). The power of Christ is essential to the success of the church, since it is the spirit of the *militia Christi* (Luke 14:31 as explained by DERRETT at *Nov. Test.* 19, 1977, 241-61).

(10) Ὁλεθρος, as the lexica show, is much more appropriate to death than to mutilation.

(11) A. SAND, *Der Begriff 'Fleisch' in den paulinischen Hauptbriefen* (Regensburg, 1967), 120-30, 144f, is far from conclusive on this. Σάρξ need have no ethical meaning: 1 Cor. 15:39.

(12) For the anthropology: 1 Cor. 2:11, 7:34, 14:14, 2 Cor. 7:1,13. In Hebraic terms *ruah* (πνεῦμα) is concerned with resurrection, since it will return to the bones (as in the picture given by Ezekiel). Heb. 12:13.

(13) Symbol of impurity and sin. WINDISCH at T.W.N.T. 2, 908.17ff. BARRETT, *op. cit.*, 127 is good here.

tence) by authority of Jesus, whose agent he is. The community acts with the power of Jesus. It cannot be argued that Paul's action is not inspired by his concept of Jesus and his teaching. The drastic action of 'handing over... for the destruction of the flesh' is thus attributed to Jesus indirectly on two counts at least. What criminology and penology is this that attributes to Jesus the requirement that the community should solemnly hand over an incestuous person for the destruction of his flesh? And what Christology?

Of the many notions that have been offered to explain Paul's intention the following approximations are worth mention:

1. The man is cursed and will wither as a result of the curse pronounced in Jesus's name by Paul and communicated by the church to the man ⁽¹⁴⁾.
2. The man is reconsigned to the world which is Satan's realm and will suffer because of his exclusion from the body, separation from which denies the possibility of salvation ⁽¹⁵⁾.
3. The man, reconsigned to the world, may later seek reintegration as a result of opportunities for repentance (like the Prodigal Son, whose body suffered) ⁽¹⁶⁾.
4. The destruction of the man, however achieved, will purify the body and/or the spirit of the *church*, whose salvation is thus secured ⁽¹⁷⁾.

(14) An ancient view persisting in various forms. E. v. DOBSCHÜTZ, *Christian Life in the Primitive Church* (London/N.Y., 1904), 46, 387-92; A. SCHLATTER, *The Church in the New Testament Period* (London, 1955), 183-4; SCHNEIDER at T.W.N.T. 5 (1954), 170; HURD, *op. cit.*, 137. BARRETT, *op. cit.*, 126 is unclear, but he notes that the verbal parallels with the magical papyri (CONZELMANN, *op. cit.*, 118, n. 37) do not provide a real parallel, and he was firmly supported by ALLO (*op. cit.*, 123). CONZELMANN (118) adheres to the ancient view, not as proving a belief in the magical potency of the curse, but as an example of the need to preserve the holiness of the church. BÜCHSEL (*ubi cit.*) expects a fatal accident!

(15) ALLO denies this, *op. cit.*, 123-4. CONZELMANN also rejects it.

(16) The tendency suggested by T.L. EDWARDS, *A Commentary on the First Epistle to the Corinthians* (London, 1885), 126-7; G.G. FINDLAY in *Expositor's Greek Testament* (II) (London, 1912), 809; ALLO, *op. cit.*, 122; an opinion of SAND rejected by CONZELMANN, 118, n. 40.

(17) ALLO rejects the old view, *op. cit.*, 122. CAMPENHAUSEN, *op. cit.*, 147,

All these notions seem to me to be wide of the mark, and to betray a want of knowledge of legal history.

The Man's Predicament

First, what was this man's crime, and why is he placed in this predicament? One can commit crimes without the whole community being blamed as a result. It is generally understood that he committed incest. At Jewish law such an act would incur the death penalty⁽¹⁸⁾. Josephus tells us so⁽¹⁹⁾. Corinth was a Roman colony founded by Caesar, and Roman law would be applied there by the proconsul of Achaëa, having the proper *imperium* whereunder he would exercise *coercitio*⁽²⁰⁾. He could be stimulated into action by private prosecution, which, at any rate in theory, the Christian community could instigate or set on foot. At Roman law this form of incest was a crime which at many periods carried the death penalty, and at all periods incurred severe chastisement at the least⁽²¹⁾. How came the man to incur this? Did he think the community would protect him? How could it do so unless it had disciplinary jurisdiction, a jurisdiction concurrent with the proconsul, of its own?

The answer has occurred to scholars before⁽²²⁾, but has been disregarded by most. Conversion was regarded as re-creation.

n. 1, reports an analogous opinion of G. BORNKAMM (The Body of Christ will be perfect at the Last Day because the spirit of the offender has been removed), but this is rejected by E. SCHWEIZER and himself on the basis of 1 Pet. 4 : 6, which I do not find conclusive. R. MINNERATH, *Les Chrétiens et le Monde (I^{er} et II^e siècles)* (Paris, 1973), 285-6.

(18) Mishnah, Sanh. IX.1.

(19) *Ant.* 3.275-6.

(20) A.N. SHERWIN-WHITE, *Roman Society and Roman Law in the New Testament* (Oxford, 1963), 4-8, 13-14.

(21) T. MOMMSEN, *Römisches Strafrecht* (Leipzig, 1899), 684-8. Gaius I.63. On incest as a crime *iure gentium* see Paulus at Justinian, Dig. 23.2.68. Incest with the mother-in-law aroused Romans' wrath: *ibid.*, 48.9.5.

(22) See next note. A suspicion of the correct answer was culled by Jac. TRIGLANDIUS (1703 : an early expert on the Karaites) from Bertinoro and Maimonides (below, n. 23), as reported by WOLFIUS, *op. cit.*, 364, and (no doubt thence) by DOBSCHÜTZ.

Converts were as if new-born. Jewish proselytism was potentially inherent in conversion to Christianity because the latter, as a conversionist sect (like our contemporaries, the Lubavitch), must induct proselytes in a mode acceptable to Judaism (therefore Acts 15:1), or its members would have no standing in the Jewish communities from which further converts were to be sought. Baptism 'in the name of Jesus' would not necessarily exclude conversion to Judaism: on the contrary, it was a special route thereto. Naturally non-Christian Jews would dispute this, but the question was not in Paul's mind in this instance. Jews were clear that *bona fide* converts were new creatures — and Paul shared this belief (2 Cor. 5:17, Gal. 6:15; cf. presumably ἀργιγέννητα βρέφη at 1 Pet. 2:2) — without relations⁽²³⁾, and this fiction worked to their disadvantage (they acquired a low status) as well as their advantage. One advantage was that certain former restrictions on marriage disappeared. This is the basis, as ought to be widely known, of the passage misunderstood⁽²⁴⁾ as the 'Pauline privilege'. The couple, therefore, had rejoiced in a new freedom, and the church, being, in characteristically Jewish fashion, more concerned with deeds than words, 'boasted' of its having notable proof of the reality of their conversion! 'They had the right to do this, and they did it'!

Now Paul could have taken their view of the matter as several rabbinical scholars certainly did⁽²⁵⁾. But alas, the heathen, who are visualised as looking on, would laugh at a situation whereby conversion to an oriental cult was a means of indulging what would otherwise be a criminal desire. Tacitus could have been anticipated easily enough: *profana illis omnia quae apud nos*

(23) (STRACK-) BILLERBECK, *Kommentar zum Neuen Testament aus Talmud und Midrasch* II (Munich, 1926), 423; III.353. See next note. For a correct account of the rabbinical point in English see Maimonides, *Code V* (*Book of Holiness*), I, xiv, 10-19 (trans. L.I. RABINOWITZ and P. GROSSMAN, Yale Judaica Ser. 16, New Haven/London, 1965, 94-6).

(24) 1 Cor. 7:12-16 had long been misunderstood. D. DAUBE, 'Pauline contributions to a pluralistic culture...', in D.G. MILLER and D.Y. HADJIDIAN, edd., *Jesus and Man's Hope* II (Pittsburgh, 1971), 223-45.

(25) The references, especially Bab. Talm., Sanh. 58 a-b, are given fully at BILLERBECK, *op. cit.*, III, 353-8.

sacra, rursum concessa apud illos quae nobis incesta... proiecissima ad libidinem gens, alienarum concubitu abstinent; inter se nihil illicitum (hist. 5.4,5). This is precisely the caution that is expressed by Maimonides (at *Mishneh Torah* V,I,xiv.12). The Sages forbid on this very ground what the Torah notionally allows. Paul was understandably perturbed. It is not the case, as Billerbeck suggests⁽²⁶⁾, that the *halakha* was useless to help its expert, Paul, in the solution of major moral problems. The fact is that the Name would not be glorified (Rom. 15 : 7-11; 1 Pet. 2 : 12), and that is a fundamental requirement of the Torah^(26a). An illuminating situation arose in 1965 (the case of *Reid*). A married Christian male in Ceylon was allowed to change his religion to Islam in order to acquire an additional wife or wives. The scandal aroused widespread interest. Their own decision was defended privately by their Lordships of the Privy Council, who were responsible for the scandal, on the ground that it was inexpedient for the imperial power to purport to redefine the religious law and so offend the Muslim community. Muslim *'ulama*, of course, could have done so without complaint, had theirs been the court of appeal: though one can hardly imagine their taking so advanced a line. However, the publicity which the case afforded for Islam was unfavourable.

Paul has evidently interpreted the textual sources in such a way as to make this form of incest a crime. Even though proselytes were new creatures they were not utterly unrelated persons. Even the rabbis agreed that a converted male cannot marry his mother; a manumitted slave (who is like a proselyte) cannot with impunity commit sodomy or bestiality. It is possible to argue that a woman who has been enjoyed by a man's father must not be enjoyed by that man, since the Pentateuch explicitly refers to the physical act⁽²⁷⁾. One could take a different view, as for centuries rabbinical Jews did, but it was highly inexpedient to do so. Paul, as the spiritual leader of the new sect, a sect

(26) *Ibid.*, 358.

(26a) DAUBE, *Jur. Rev.* 1978, 184-5.

(27) Contrast the wording of Lev. 18 : 8 with Lev. 18 : 12. Footnote a.3 by the editor of the Soncino trans. of Bab. Talm., Sanh., ed. I. EPSTEIN (London, 1969), 58b.

which was guided by the spirit and power of Jesus and not by the written word of the Torah or its rabbinical interpretation, has made up his mind, and the fact that such incest was criminal amongst the pagans of Corinth was highly significant in his eyes, for he says so.

Why was the man not heard in his defence? He could not claim that he had not been warned ⁽²⁸⁾, since he knew before his conversion (Rom. 1 : 32, 2 : 14-16) that such an act was immoral as well as a crime. The Torah itself was a public warning ⁽²⁹⁾ to every aspirant to baptism. The man's motives were unimportant, seeing that his crime consisted in living with the woman. She was supposed to be the weaker party under his influence: he was guilty of having her and of having caused her to be 'had' by him (Rom. 1 : 32d). Widows did not inherit in Greece and if they wanted to share the assets they must somehow come to terms with the heir ⁽³⁰⁾. If the deceased was a Roman citizen she might have taken property under his will; if he left no will her chances of benefiting, even after expensive litigation, were slight. Did the man induce the woman to have intercourse with him as part of a deal, and was the conversion somehow in aid of this? It was an unsavoury affair, and expulsion with the cumulative force of the power of Jesus, the spirit of Paul, and the authority of

(28) DERRETT, *Law in the New Testament* (London, 1970), 171-3. Add *Wisd.* 12.

(29) Acts 15 : 21. This extraordinary text is a permanent obstacle to those who could claim that material at Lev. 18 : 3-5, 6, 8, 29-30 was not binding upon proselytes, by way of warning them of the character of the Judaism they were entering. But it does not touch the vital question, how far the spiritual leader (cf. Hindu *guru*, Hassidic 'Rebbe') could vary or modify scriptural law in his guidance of the sect. At Jerusalem this aspect would naturally be played down, since a central, common, standard was traditionally expected from that quarter.

(30) Isaеus, Περὶ τοῦ Κίρωνος κλήρου, 22-27, 35. J.W. JONES, *The Law and Legal Theory of the Greeks* (Oxford, 1956), 286. A.R.W. HARRISON, *The Law of Athens. The Family and Property* (Oxford, 1968), 108-11, 124-56. D. SCHAFFS, 'Women in Greek inheritance Law', *Classical Q.* 25 (1975), 53-57. In Egypt, too, the widow was often under the guardianship of the son of the deceased : R. TAUBENSCHLAG, *The Law of Greco-Roman Egypt in the Light of the Papyri* (New York, 1944), 130, n. 13. For the Roman Law : J.A.C. THOMAS, *Textbook of Roman Law* (Amsterdam, 1976), 517-23.

the assembled community would, no doubt, have been in order. *But the text does not imply that expulsion was enough.* Expulsion does not imply destruction of the body to the end that the spirit should be saved!

Handing Over

The word ἀποδοῖν (v. 2c) can well imply here, as so often (John 19 : 15, Luke 23 : 18, Acts 22 : 22), that he be killed! The action of handing over a fellow Jew to the gentiles was, no doubt, extremely abhorrent⁽³¹⁾. The later learning on the 'informer'⁽³²⁾, the Jew who betrayed other Jews to the gentile power, would have been pointless had it not been understood that it was a crime to hand over a Jew to the gentiles, from whose possession all loyal Jews must be redeemed. On the other hand the 'court', i.e. the judicial body of a Jewish community, can order a Jew to be handed over to the gentiles, just as they can order a Jew to curse or flog his own father in spite of the commandment to the contrary. I take the verb παραδοῦναι here in its technical sense, of the act *traditio*, not *proditio*⁽³³⁾, whereby a Jew, sometimes first cursed and thereby excluded from the community, is accused before the gentile magistracy for whatever punishment they are known to be likely to inflict. This happened in Palestine itself⁽³⁴⁾ and in the diaspora⁽³⁵⁾. The most significant instance was that signalled by παρέδωκαν Πιλάτῳ (Mark 15 : 1), but it was not anomalous. In the time of Christ the Qumran sect accepted that an offender might be handed over to be put to death according to the laws of the gentiles: such are the words

(31) D. DAUBE, *Collaboration with Tyranny in Rabbinic Law* (London, 1965). ἐμφανισταί are fit for death: Ep. Arist. §§ 166-7.

(32) G.F. MOORE, *Judaism* (Cambridge, Mass., 1958), I, 525; II, 149 n. 387. Maimonides, *op. cit.*, I, VI, 3.12 (no. XXII). See *Enc. Jud.* (1971), s.v.

(33) DERRETT at R.I.D.A., 3rd ser., 24 (1977), 3-19. N. PERRIN at *Der Ruf Jesu und die Antwort der Gemeinde (Fest. Jeremias)* (Göttingen, 1970), 204-12. John the Baptist also παρεδόθη (Matt. 4 : 12).

(34) Mark 10 : 33, 15 : 1-4, Acts 3 : 13, 2 Cor. 4 : 11. Josephus, *bell.* 6.303 (ἀνάγουσιν). Cf. Acts 21 : 11.

(35) Josephus, *bell.* 7.414 (τῇ τούτων παραδόσει). Acts 18 : 12 (ἡγαγον).

of a would-be constitution of one of the most pious groups in Israel ⁽³⁶⁾.

'Satan' then is the non-church (Acts 26:18) to which the world and its governments belong (Luke 4:5-7). It implies the holder of the *imperium*. It cannot be taken as certain that he will take any action, or what action he will take. He may flog him within an inch of his life, or execute him, or the man's friends might bribe the state's officers to let him escape. But Paul is concerned with the action which, in righteousness, the Corinthian community should take. That action may save the man's spirit. How?

Atonement by Suffering

The Essenes, so we are told ⁽³⁷⁾, used to content themselves with cursing offenders, whereupon the latter (being already pledged under oath not to eat with non-members: cf. 1 Cor. 5:11c) would pine away, and, on the point of death, could be rescued as having made atonement by the wasting away of the body (cf. 2 Cor. 2:6-7). That would be a non-capital case. It is common knowledge ⁽³⁸⁾ that sufferings are an atonement. See 1 Cor. 11:32, 1 Pet. 4:1, which accept the theory. A wicked

(36) Damascus Document (CD), IX.1. Whereas the translation of the second half (which concerns us) (vocalised b'hāqqē haggōyim l'hāmīt hū': E. LOHSE, *Die Texte aus Qumran hebräisch und deutsch*, Munich, 1964, 82) is no problem, the first half is still in dispute, no two translators agreeing. P. WINTER, *Revue de Qumran* 6 (1967), 131-6, I. RABINOWITZ, *ibid.*, 6 (1968), 433-5, Z.W. FALK, *ibid.*, 6 (1969), 569. My own translation of the first half is the literal but nearly incredible one (which can be justified in comparative legal historical terms): 'Every individual who excommunicates a human being... (shall be put to death, etc.).' In other words the power of the community to expel or to curse another Jew (including a non-member) is a power reserved to itself subject to a death-penalty. So seriously were such curses taken.

(37) Josephus, *bell.* 2.143.

(38) Mishnah, Sanh. VI.2. The topic is fully but concisely handled by MOORE, *op. cit.*, I, 346-8. BARRETT, *op. cit.*, 126-7 noticed this doctrine but rejected it on the apparently weighty ground that for Paul atonement is not through our deaths but through Christ's. But if Christ reconciled man (including non-Jews) to God by his suffering and this availed our offender

man's sufferings will atone for his sins, if he prays that they may be accepted as such, in lieu of the sufferings of hell. Just as too much good fortune, including miracles, in this life diminish the joys of the world to come, so suffering diminishes the pains of hell. A premature death, even a poorly-attended funeral (the charitable rabbis affirm) may be deemed to atone for sins. Physical punishment may be presumed entirely to atone for sins coincidental with crimes if the offender repents, and it can be presumed in his favour that the fear, pain, or despair induces repentance! He will then partake in the world to come⁽³⁹⁾. The sufferings of the Men of Sodom, upon whom fire rained down, enable them to stand in the Judgement and plead their case⁽⁴⁰⁾. The rods or the axe will enable the man to appear in the Day of the Lord and to escape the second death. This is the proper way, I contend, to approach the otherwise unedifying story of Ananias and Sapphira⁽⁴¹⁾.

That this theory is acceptable to Luke, Paul's coreligionist and, it is believed by many, companion, is proved by an intriguing episode, that of the two thieves, crucified with Jesus. Their conversation with each other and with Jesus has this obviously in mind, at the very least. Those justly condemned for their crimes (Luke 23 : 41!) can atone for their guilt by their sufferings, whereupon paradise can be attained by them, and

at the time of his conversion, what remains for the man who is convicted of sin thereafter? I suggest that the corporal or even capital punishment, accompanied by confession and/or repentance, will enable him to stand in the Judgment (as Christ puts it) and obtain mercy. Thus there is no contradiction between this outlook and the doctrine of the atonement which appears elsewhere in Paul. The Jewish theory of atonement through suffering is so well embedded that Siphre on Num. 112 says that death itself is expiation for sins. Some qualifications are to be read into this.

Medhātithi on Manu VIII.318 : physical punishment (not a mere fine) provides atonement.

(39) On the whole subject see Mishnah, Sanh. X (= Bab. Talm., Sanh. XI). MOORE, *op. cit.*, II, 387-8. A closely related idea is attributed to L. MATTERN by CONZELMANN, *op. cit.*, 118, n. 40.

(40) Jesus's opinion : Matt. 10 : 15, 11 : 24. Another view is possible : Rom. 9 : 29 ; Mishnah, Sanh. X.3.

(41) DERRETT, *Studies in the New Testament* (Leiden, 1977), 193-201.

those who execute them actually do them a service. Before that ultimate solution is reached no doubt rebuke may be employed, and it is not wanting in that very incident (οὐδὲ φοβῆ σὺ τὸν θεόν, ὅτι ἐν τῷ αὐτῷ κρίματι εἶ;). Paul himself gives patterns of rebuke in his correspondence with the Corinthians which are incomparable. So much for the penology of the incident from the church's standpoint. But what of the role of the proconsul? How comes he to be cast as Satan in the drama? Is this a necessary part of the church's discipline?

The Role of the Gentile Judge

Does not the foregoing conflict with 1 Cor. 6, the immediately following section of the same epistle? Paul consigns (in my view) the incestuous man to the mercies of the Roman judge (the community are to hand him over for punishment), and he next rebukes the Corinthians for having placed some internal quarrel before a heathen adjudicator. How are these passages to be reconciled? In civil affairs the community judge for and amongst themselves: they are autonomous on the principle admittedly operating in the diaspora⁽⁴²⁾. They do not, it seems, have the power of the sword. The one who holds the sword exists for the punishment of crime, both to purify the group and as a deterrent⁽⁴³⁾. Thus the church, as visualised by Paul, relied upon the penal powers of the state⁽⁴⁴⁾. There was no efficient police force or detective agency. The Jewish religious communities were expected to maintain discipline. The orthodox Jews applied so much of the Pentateuchal and a form of pre-rabbinic law as did

(42) Josephus, *ant.* 14.117. M. STERN, *Greek and Latin Authors on Jews and Judaism* I (Jerusalem, 1974), 278. *ant.* 14.235: καὶ τόπον ἴδιον ἐν ᾧ τὰ τε πράγματα καὶ τὰς πρὸς ἀλλήλους ἀντιλογίας κρίνουσιν. The proquaestor and propraetor confirmed this. On 1 Cor. 6: 1-11 see E. DINKLER, 'Zur Problem der Ethik bei Paulus. Rechtsnahme und Rechtsverzicht,' *Z. Theol. Kir.* 49 (1952), 176ff.

(43) Rom. 13: 1-7, 1 Tim. 2: 2. Tit. 3: 1, 1 Pet. 2: 13-14, 1 Clem. 61. Josephus, *ant.* 14.176. Cf. Acts 12: 2-3 (read together). For Paul's outlook see E. BAMMEL, *Theol. Lit. Z.* 85 (1960), 835-40.

(44) This aspect is ignored by O. CULLMANN, *Der Staat im Neuen Testament* (Tübingen, 1961).

not amount to capital jurisdiction. The Christians had the spirit of Christ as their guide, and had the opportunity to turn in individual cases to their teacher, Paul. The requirement⁽⁴⁵⁾ to put away the evil (referred to by Paul at *v.* 13) operated not as a legal principle, but a moral imperative. The state could not allow these religious communities to exercise capital jurisdiction, since if it did its own supremacy would be at an end.

It might seem that some help is to be obtained from 1 Tim. 1 : 20. There too offenders are consigned to Satan. Excommunication is alluded to, specifically in order to delate the offender to the magistrate. The words παιδεία, παιδεύω can be used to refer to chastisement⁽⁴⁶⁾. Why should the magistrate chastise Hymenaeus and Alexander? It is not a capital case. Circumstances have moved on, perhaps, beyond the situation prevailing at the time of 1 Corinthians. The two miscreants have been guilty of βλασφημεῖν which I take in the sense 'slander' (cf. Acts 13 : 45). They slandered, perhaps the community^(46a), perhaps the writer of the epistle, most probably by abusive words (as sectaries will). Here was an internal religious dispute, in which breach of conscience is alleged to have occurred. Some people wanted to be teachers of the Law without adequate training and equipment. Perhaps they were attempting to engineer a schism, and in the process slandered the orthodox teacher. Now slander was a criminal offence as well as civil wrong in the Hellenistic world to which 1 Tim. belongs. Territories applying the old Attic procedures⁽⁴⁷⁾, familiar through the works of the orators, allowed a δίκη κακηγορίας or a γραφή ὕβρεως — the former was ἀτίμητος, no liquidated damages were sought — elsewhere there was a δίκη (not a γραφή) ὕβρεως addressed to the equivalent of the police demanding ἐκδίκη. The magistrate would inflict a reprimand (ἐπιτιμία) or fine, part or the whole of which could be

(45) Deut. 17 : 7, 19 : 19, 22 : 21, 24, 24 : 7.

(46) BAUER-ARNDT-GINGRICH, *op. cit.*, παιδεία, 1; παιδεύω, 2b.

(46a) According to Temple Scroll LXIV.6-13 those who slander Israel must be impaled!

(47) Pap. Oxyr. 2177 (3rd cent.). J. MODRZEJEWSKI at *Iura* 12 (1961), 295.

assigned by him as damages⁽⁴⁸⁾. The Jewish law itself did not contemplate any human punishment for slander: the offence, which was held in abhorrence by the pious, could be punished by God alone⁽⁴⁹⁾. The author of the letter represents himself as not content to leave the matter to God! If he agreed that a slanderer would never see God⁽⁵⁰⁾, he would be conferring a benefit upon the naughty pair by arranging for them to be prosecuted to punishment! Calumny, in the traditional Jewish view, is equal to idolatry, incest, and murder: so the benefit was considerable!

Objections and Answers Thereto

Objections to this interpretation amount to this, that though the church has the right to decide on its membership, and therefore the right to excommunicate people for behavioural deviation, Paul cannot manipulate the state's penal machinery, over which he has no control, and which is of very questionable efficiency and no predictability. Boycott (Ps. 1 : 5) is visualised at any rate in the Matthaean church⁽⁵¹⁾, and the nature of things makes such an attitude universal⁽⁵²⁾. The church is not independent if it uses the state for capital cases such as incest and, later on, much less significant disciplinary cases such as calumny. On the other hand it is quite unrealistic to pretend that a Christian community would, by definition, give rise to no penal cases whatever, so the existence of a penal jurisdiction must be somewhere.

Light on the background to Jesus's and Paul's minds on this subject can be obtained from an interesting quarter. Excommunication, with submission enforced by attachment and confiscation of offenders' property, was known in Rome at the end of the

(48) TAUBENSCHLAG, *op. cit.*, 332-5 and nn. JONES, *op. cit.*, 118, 269. A.R.W. HARRISON, *The Law of Athens, Procedure* (Oxford, 1971), 67, 76 n. 1, 81, 155, 174 n. 2.

(49) Ps. 12 : 4, 101 : 5. Bab. Talm., B.Q. 91a. MOORE, *op. cit.*, II, 148-50. Sive slander (βλασφημία, λοιδορία) of a ruler : Josephus, *ant.* 13.293-5.

(50) Bab. Talm., Sanh. 103a, Soṭah 42a.

(51) Matt. 18 : 19.

(52) Matt. 10 : 4/Luke 9 : 5, 10 : 10-12. Rom. 16 : 17-20.

first century, and attributed by the author of 4 Ezr./2 Esd. 10 : 8 to Palestine of a much earlier period. But this, as we know, does not exclude the communities' handling of penal, including capital matters entirely without reference to the state, when this was in gentile hands, if circumstances allowed this. We can put to one side the equivocal case of Stephen the proto-martyr: that could have been stoning by lynch-law. But it is quite otherwise with Josephus, *ant.* 20.200-1. ὁ Ἀνανος . . . καθίζει συνέδριον κριτῶν καὶ παραγαγὼν εἰς αὐτὸ τὸν ἀδελφὸν Ἰησοῦ . . . καὶ τινας ἐτέρους, ὡς παρανομησάντων κατηγορίαν ποιησάμενος παρέδωκε λευσθησόμενους. ὅσοι δὲ ἐδόκουν ἐπιεικέστατοι τῶν κατὰ τὴν πόλιν εἶναι καὶ περὶ τοὺς νόμους ἀκριβεῖς βαρέως ἤνεγκαν ἐπὶ τούτῳ καὶ πέμπουσιν πρὸς τὸν βασιλέα κρύφα παρακαλοῦντες αὐτὸν ἐπιστεῖλαι τῷ Ἀνάνῳ μηκέτι τοιαῦτα πράσσειν...

James the brother of Jesus had for thirty years been running an ecclesiastical disciplinary machinery, probably with associates, exercising a great deal of power along his lines of communication (Gal. 2 : 12) in competition with the High Priest and Sanhedrin. The differences between James and his orthodox opposite numbers would come squarely within the proposition at Acts 18 : 14, and it would be impossible to get the Romans to arbitrate between them. As soon as their opportunity arose, when the prefect was absent and the new prefect had not yet arrived, Ananus the High Priest summoned a court which certainly operated under the indigenous criminal law, unhampered by the gentile supremacy, had James and others accused on a ground of 'illegality', and handed them over to be stoned, the traditional Jewish penalty. It is not quite impossible that similar charges might have succeeded before a Roman judge⁽⁵³⁾. But the

(53) Did Paul and his colleagues know of the edict of Claudius (43/4) (Josephus, *ant.* 19.286ff.) which confirmed the privileges of Jews throughout the world? Not every provincial knew, or cared. The provocation offered to the Jews by the young men of Dor, in breach of this law, was characterised by Publius Petronius, Claudius' legate, as ἀσέβεια, and punishment was denounced against the offenders (*ant.* 19.302-11). In his letter he makes the interesting point that the emperor and Yahweh each have their ἴδιοι τόποι (which, incidentally, explains the common misunderstanding of Mark 12 : 17).

fact that the High Priest and his colleagues were prepared to wait what amounted to about thirty years proves that the chances were not rated high. They took advantage of their temporary freedom. Many were aggrieved at this conduct, for they could see where this would lead (*ant.* 20.202-3).

Thus the Jewish authorities had a criminal jurisdiction of their own, and it was only suspended during the rule of the prefects and procurators. This diarchy will have been the state of affairs familiar to Paul in Tarsus and every other place he visited in his missionary tours. Jesus cannot have counted on his disciples living, for the greater part, in communities in which church and state were one and the same. The episode of the Woman taken in Adultery⁽⁵⁴⁾ does not suggest that Jesus denied the jurisdiction of the Jewish people to inflict punishment, should the circumstances ever be suitable. My conclusion is that the polity envisaged by Jesus and that known to Paul left the community at liberty, if it chose to do so, to hand over offenders to the civil power for such punishment as the latter might chose to inflict upon them. This would be the ultimate sanction in cases where the church's domestic disciplinary system was inadequate or unsuccessful. Excommunication would be desirable, suspension too, in various cases, but this would not 'put away the evil' in terms of the Deuteronomic passages unless criminals deserving of punishment by the state were put before the state for that purpose. Whether the state rose to the occasion, and played the rôle of Satan as expected, would be the state's affair. Both God and the king are to be feared (1 Pet. 2 : 17; John 19 : 11).

Further objections arise, due to theologians' reluctance, in our days, to admit the validity of the most notable application of 1 Cor. 5 in more recent centuries. Our text along with John 2 : 15 were taken by the Western church to justify the excommunication of an offender, and his consignment to the civil power, the object being that he should be capitally punished. Gratian takes

(54) DERRETT, *Law in the New Testament*, ch. 7, reconsidered by B. LINDBARS in E. BAMMEL and others, edd., *Donum Gentilicium (Fest. Daube)* (Oxford, 1978), 51ff. at 56-62.

up the point and elaborates it ⁽⁵⁵⁾. Not only the Spanish Inquisition, but the Reformers too, in their time, utilised it. In Massachusetts Quakers were not merely flogged but also hanged. In some circles this outlook is regarded as peculiarly Roman Catholic, but even Foxe's *Martyrs* puts the most casual reader in the position to see how general it was. The fire, or the noose, secured the offender for eternal bliss, and at the same time deterred others from following his path. The modern commentator ⁽⁵⁶⁾ tends to find this exegesis of our passage unworthy of serious consideration.

Perhaps the solution of the difficulty lies in the difference in situations between Paul's 'Satan' and the Christian state operating on a conviction of heresy. Paul expected the gentile official to act independently, and objectively, as we see them doing in the New Testament ⁽⁵⁷⁾. Paul could not have envisaged the procedure being used by the Christian community against a member merely because of a difference in religion. He envisaged two judicial acts, the first on the part of the community, the second by the gentile official. He could not expect that a clerical faction would use the state as a cat's paw to prevent schism: indeed the experience evidenced in the New Testament justifies confidence that the Roman state would do no such thing. Subterfuges such as those used at Acts 18 : 13 or Luke 23 : 2 had been attempted in vain. Once a lay authority becomes itself a tool in the hands of a clerical faction the safeguard of a second, and purely secular trial is lost.

Furthermore the manner of judgment taught in the New Testament emphasises the caution with which one must proceed in cases where the offender may be reasoned with (the primitive sayings at Matt. 7 : 1-5/Luke 6 : 37-42), and the reluctance that must be evinced by one who takes it upon himself to administer

(55) Augustine, *contra lit. Petilian* as quoted by Gratian, *Decretum* II.23. 4, 40 § 2.

(56) CONZELMANN, *op. cit.*, 118 n. 36. 'O benedictae flammae!' The reference to ALLO, whom he cites, when verified, shows that he is unfair to him.

(57) Luke 23 : 13-16, Acts 18 : 12-17, 19 : 37, 21 : 11, 22 : 30, 25 : 21. On Justin's critique of Acts 18 : 12-17 see SHERWIN-WHITE, 99ff.

correction to a fellow member (the principle of the mote-and-beam : *supra*; and the principle of the non-existence of lordship: Mark 10 : 42, 1 Pet. 5 : 3). Criminal jurisdiction should be sparingly used. But should it ever happen that the church has no state to fall back upon, and should crime occur from which the church must be protected, the church should not hesitate to exercise the criminal jurisdiction itself. It need not fear that the appellation, 'Satan', i.e. the world which God will judge, the 'outside', will be applied to it. There is no authority for the proposition, beloved of Tolstoy, that there is no basis for punishment at all, seeing that all members are sinners. Without the deterrent the chances of their being sinners would be greatly enhanced.

This proposition was actually put into practice for a short but terrifying period in the State of Deseret, when Brigham Young ruled the Mormons in what later became the Territory of Utah. His contests with the United States officials were continuous, and for a while he wielded supreme power through his ecclesiastical organisation. On occasions he handed over offenders to the civil power for punishment, but since there was no effective civil power for quite some time he saw to it that atonement by outpouring of blood was provided for offenders whom he first excommunicated and then had done to death. The experiment was an unhappy one, but it shows how 1 Cor. 5 could be put directly into operation in the last century ⁽⁵⁸⁾.

Conclusion

The position, then, with the Christian disciplinary system as operated by Paul within two decades of the crucifixion was as follows. Religion itself not only justified but also required that the good of the soul of an offending member should be pursued, where his crime was one from which the whole community must be cleansed, by his being put to acute corporal punishment, even (if it should so turn out) death. Since the church at Corinth and

(58) S.P. HIRSHON, *The Lion of the Lord* (London, 1971), 156-8, et *passim*.

similar diaspora places had no power of the sword, the deterrent power of the gentile judge must be called into action. In this way, incidentally, the good name of the church will be preserved. This agrees very closely with the traditional Jewish method of dealing with such problems. Those that do not hear the church are to be treated as taxgatherers and sinners. Jews must not go to the lengths of utilising gentile jurisdictions at all, unless the judgment or sentence would be acceptable in like case to Jewish scholars if they had the jurisdiction themselves⁽⁵⁹⁾. The result is that, though the power of Jesus, and the authority of Jesus, and the Day of the Lord are called upon as media or arguments respectively for the transaction, the intellectual substrata are identical with those known to operate in Jewish environments in which Paul himself had been brought up and with which he was familiar. His own back had felt the blows of the lash, and nowhere do we hear that he denied the jurisdiction of the community to inflict the penalty. Mistaken they undoubtedly were, and therefore he accumulated merit from the unjust punishment, but they acted within their rights none the less.

The outlook survived into the Byzantine Empire: punishment in this world redeems one from punishment in the next, if one is guilty — if one is innocent it wins a saint's crown (so St Theodore of Sykeon according to George ELEUSIS, *Life of St Theodore of Sykeon*, § 125)⁽⁶⁰⁾.

(59) L. LANDMAN, *Jewish Law in the Diaspora: Confrontation and Accommodation* (Philadelphia, 1968), 31, 39. J. KATZ, *Exclusiveness and Tolerance* (Oxford, 1961), 52-63.

(60) Theophilus Joannou, *Mnemeia hagiologica*, Venice, 1884, 361ff., trans. E. DAWES and N.H. BAYNES, *Three Byzantine Saints* (London and Oxford, 1977), 172.