

Christian Reconstruction

Isaiah 61:4

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BRIBERY AND JUDGMENT

by Gary North

And thou shalt take no gift: for the gift blindeth the wise, and perverteth the words of the righteous (Ex. 23:8).

The context of this law is judgment rendered in a court. Judges are not to render false judgment in favor of a poor man (v. 3) or against him (v. 6). People are not to offer false witness in a court against a righteous person (v. 7). They are not to oppress a stranger (v. 9). Such corrupt judicial acts constitute oppression, which points to the source of oppression: a misuse of God's authorized monopoly of justice, the courts. Oppression is therefore primarily judicial: either the court renders false judgment, or else it refuses to prosecute a righteous person's cause. The court indulges in sins of commission or omission. It is supposed to uphold God's mission: rendering righteous judgment, in time and eternity.

By focusing on the secondary source of economic oppression, the free market, critics of capitalism have misled people. The free market is not the source of the problem, although the visible manifestations of oppression frequently are found in market transactions. The source of the problem is the misuse of a biblically legitimate monopoly, the court system, by oppressors who are allies of unscrupulous profit-seeking businessmen. Long-term economic monopolies are almost always the creation of civil governments.

Why do judges become allies of economic oppressors, thereby making possible continuing oppression? This verse tells us. The oppressors take a portion of their capital and "invest" it. They bribe a court officer to render unrighteous judgment, or to look the other way and refuse to prosecute unrighteous public behavior.

The power of the bribe is very great. This verse tells us that wise men are blinded and righteous men become perverse. The combination of monopolistic power and the wealth transmitted by the bribe is too great for good men to handle. We do not receive something for nothing, except by God's grace. When the bribe is offered, it is not offered free of charge. It is not a gift; it is payment for services received or hoped for. But the services are corrupt. They corrupt the recipient, the court, and the society. When men believe that they can buy the judgment they prefer, they lose faith in the social order. The guardians of social order no longer guard in the name of God by means of His law. They sell judgment to the highest bidder.

Highest Bid Wins

The principle of "highest bid wins" is valid in the market. If this principle were not honored, then the auctions of the world could not function. Men have expectations of how resources are to be distributed in any social order. If the principle of private ownership is maintained by the civil authorities, then people know that they have the **right to exclude**

others from access to their property. The civil government is expected to uphold legal **boundaries**. Only by offering higher and higher bids can others hope to gain access to the asset and the key legal right (immunity) associated with ownership, namely, the right to exclude. The principle of highest bid wins is inherent in any society that upholds the private property system. The rules of economic order are known in advance, and people can make economic plans for the future in terms of these judicial assumptions.

The difference between the operation of the free market and the court system is that God has granted a legal monopoly to church government and civil government. Civil government has been granted a geographical monopoly which is unique. It represents God to those within its geographical boundaries, an authority defined by constitutional law or custom. Thus, it is not governed by the principle of highest bid wins. To imagine that such a principle governs the courts is to imagine that God honors the same principle in His rendering of judgment. But God honors only His law. All men are judged by His law. He does not respect persons, including those who could offer him a higher bid. The basis of rewards in eternity is righteousness.

Highest Ethical Bid

Now, it might be argued that the principle of highest bid wins still operates in God's courtroom of final judgment, in the sense that righteousness is the "coin of the realm," and those who pay the most ethically receive the best rewards (1 Cor. 3:13-15). But there is a fundamental difference. God measures the quality of one's ethical performance in terms of the assets one has been given. The story of the widow's mites informs us of this principle. Those rich people who gave much into the treasury did not give so much as the poor widow who cast in two small coins, for this was all she possessed. Jesus said, "For all they did cast in of their abundance; but she of her want did cast in all that she had, even all her living" (Mark 12:44). God can search the heart. He knows what we possess and what it has cost us to give up. A human court cannot search the heart in this way. The judges do not know; at best they can estimate. Thus, the principle of the tithe must govern monopolistic courts: each person under the jurisdiction of the monopolistic government pays the same percentage of his income. This way, the poor person knows that the system is fair. He will receive justice because he has paid as much—a known percentage of income—as the rich man. He is therefore entitled to the same honest judgment. Thus, taking a bribe corrupts the judicial system, for it introduces uncertainty into the court. The poor person never knows if he can trust the court because a rich man may pay a small percentage of his assets to a judge—an absolute amount that is far beyond the capability of the poor person to match.

The principles that govern God's final judgment are predictable. They are revealed to all in His law. The principle of "highest ethical bid wins" governs God's court: the perfect life of Jesus Christ, and His full payment on the cross. God's wrath is placated alone by this act of mercy on the part of Christ. Those who place themselves under Christ's jurisdiction thereby evade the perfect wrath of God. They receive rewards in terms of their ethical performance, but only if they have first built on the foundation that Jesus Christ laid at Calvary (I Cor. 3:9-11). These rewards are given on the basis of gifts given by God and the individual's ethical performance in terms of these gifts. The high bids are relative, not absolute.

Highest Percentage of Assets?

Not so in the free market. The bids are absolute. They have to be, if increasing economic output and the competitive performance of producers are to be furthered. Consider the alternative. What if a society required all economic transactions to be conducted in terms of "highest percentage of presently owned assets offered in exchange wins"? An automobile salesman would be required by law to sell a car to the person who offered the highest percentage of his present assets. A poor man who really wanted a car to drive (or park in front of his home with an empty gasoline tank) might give up almost everything he owns to buy it. He would come close to making it into an idol, sacrificing almost everything to buy it. But he would not be asked to increase his personal productivity to buy it. He would not know that an objective performance is required: so much money in exchange for the car. This would destroy the predictability of the market. A person with more money who wanted to buy the car, either for personal use or business use, would be outbid by the person making the car into a near-idol. Unless the second man was also willing to make the car into his own near-idol, sacrificing nearly everything to buy it, he would not be able to buy the car.

Also consider the car salesman. How would he be able to order a replacement car? By offering the highest percentage of his dealership's assets. Again, there would be no predictable monetary performance standard.

Meanwhile, in the competition for scarce resources throughout the world, everyone else would be operating in terms of highest bid wins. If you were a resource owner in another nation, where would you sell your assets? In a nation governed by highest **money** bid wins or a nation governed by highest **percentage of assets** bid wins? Probably you would sell it to whichever bidder brought in the highest price. So, any nation operating in terms of highest percentage of assets presently owned would remove itself from the world market. Thus cut off, it would grow steadily poorer. Those living in such a nation who wanted to buy anything would not need to increase their productivity; they would only need to give up a higher percentage of their assets. It would be a nation characterized by falling production and the consumption of present assets. It would be a capital-consuming society.

There is another factor to consider. Every transaction would require the seller to examine the assets of every potential buyer. The buyer (seller of money) would have to bring with him a government-authorized statement of exactly what he owned at that moment. It would be like paying your income tax every time you went to the market. It would be worse; it would be like going through an audit by the tax collector every time you went to the market. No shred of financial privacy would remain in the society. It would also lead to the creation of counterfeit asset evaluations, for these would serve as the new currency of the realm. You

can see where the principle of "highest percentage of owned assets offered in exchange" would lead to: reduced national competitiveness, reduced savings, falling income, petty tyranny, and massive cheating. In short, it would lead to bankruptcy and national extinction.

Why dwell on the obvious? Only to demonstrate that the free market operates under a different set of principles from those governing a God-ordained monopoly. The principle of the tithe governs the church. The principle of the fixed percentage of income should govern the civil government. In neither case is a bribe to be accepted as the basis of settling a conflict brought before the court.

Bribes and Higher Courts

It should be obvious that local church courts have a unique vulnerability to being swayed by considerations of money. The local church, unlike the civil government, faces the problem of its dependence on voluntary contributions. Civil courts do not face this problem. Civil governments can compel payment. Few people ever voluntarily offer lots of extra money to the tax collector, just to be nice. But people who consistently bring tithes and offerings to the local church, and rich people who bring extensive additional offerings on a regular basis, become important figures in that congregation. In a dispute between such a person and a tithing poor person, or especially a non-tithing poor man, what local church court has the will to render an adverse verdict against the rich man? This is one reason why higher church courts are so necessary: to allow a poor man to appeal to a more distant court that is less dependent financially on one rich man's contributions. While a bribe may not have been offered to a particular church officer, the economic equivalent of a bribe may have been offered. If the rich man in his dispute in any way threatens to cease giving his tithe, or threatens to stop giving the extra offerings, or threatens to leave the church altogether, then his previous offerings have in fact become a bribe retroactively.

The direct bribe is less likely to be offered to a church officer than to a civil judge. The civil judge is on a fixed salary. The people in his court are paying their taxes to a third party, the tax collecting agency. They owe him nothing. He will probably not lose his job if he renders an adverse judgment against one of them, unless one of them is a political power broker or a celebrity popular with the public. Thus, if he is to be influenced by a bribe, it is because he personally is after the money or other economic asset, such as inside information of economic value. In short, the bribe to a specific civil officer is far more likely to be obvious to the recipient; the bribe to the church court is more likely to be indirect.

Again, one of the reasons why a court of appeal is necessary is to insure honest judgment for those without money or local influence. The more distant higher court is less likely to be swayed by questions of a person's local influence. Also, the person who offers the bribe will find it more expensive and more risky to continue to offer bribes to higher court officers. Thus, the potential payoff of bribing a local judge is also reduced; on appeal, the favorable local decision may be overthrown. The more corrupt the paid-for local decision is, the more likely it will be overturned on the basis of law.

Conclusion

The Bible is clear: judges are forbidden to accept bribes. This includes judges in church courts. Bribes in church courts are more likely to be subtle and indirect than in civil courts. In each kind of court, it is necessary to have higher appeals courts for the victim of false judgment to appeal to. The free market's principle of "highest bid wins" is foreign to a God-ordained monopoly institution of judgment.