
A debate about punishment and its intensity: lex talionis in Hammurabi's Code

A Tongue-less Kingdom

Lex talionis is a principle code that is first found in the Babylonian Law, dating back in to 1700 BC. It was believed that if society was not bound by this type of law, then people will look to seek revenge upon their evil-doer and punish them beyond the damage received; possibly leading to the one's death. With lex talionis, the punishment is limited to the degree of whatever damage was done. That is, only if the two are within the same social status. Because of this, lex talionis is commonly translated or interpreted as "an eye for an eye". This is be found in Hammurabi's Code of Law. Hammurabi was one of the kings during the First Babylonian Dynasty from 1792 BC to 1750 BC. The easiest and most extreme example of his law of exact reciprocity is if someone was to go and murder another person, then the criminal will be punished by having his or her own life taken in return. However, the literal translation from Latin to English is the "law of retaliation". That being said, it is not always the case where a death is followed by another death. As long as the retaliation is limited to the crime, anything is alright. For example, instead of a punishment leading to the criminal's death, the criminal will pay the sum value of the deceased's life. This type of case is especially more likely to occur as time proceeds to modern day, where "an eye for an eye" becomes outdated.

Although exact punishment was the preferred way back during the Mesopotamian Era, "an eye for an eye" is not always the correct course of action. There should have been better ways to deal with crimes instead of jumping into the extremes of literal reciprocity. I do agree that punishment for a crime is necessary, but they should vary depending on the circumstance and degree of the crime committed. Lex talionis can be effected in controlling crime rate, however, it can also install fear into the society where any little thing can be punishable to the extremes. A person in power may take it into their own hands and judge what actions are crimes or not. With a hard, thin line describing what needs to be done after a crime is committed, things can get dangerous for the society and cause instability. There should be flexibility in the level crimes and punishment. Does stealing an apple fall under the same category of stealing something from the king? Should both crimes receive the punishment of having their hand severed? After all, stealing is stealing. So, where should the line be drawn? All crimes should be judged based on circumstance and then decide what punishment is to be delivered.

Everybody has told a lie before, and according to the Bible, telling a lie is a sin. In order to prevent one from telling another lie, a possible punishment is to cut off their tongue. Isn't that a little too extreme? If that were the case, imagine where everybody in the village will be walking around without a tongue. Back to the subject of stealing, what if it was a child who was caught stealing food. Would it still be morally okay for one to cut off a child's hand? And if the child was only stealing because he had no other way to obtain food, whose fault would that be? The child has done nothing to be put into that situation, but rather, is forced into it. Instead of mutilation, a better option may be to give back what has been taken. Give the boy a punishment where he is to give back to the community by service and work off his debt. After all, a boy with a disability will do no one any good. He will not be able to contribute to grow the economy. Especially back in that period where any person with a disability would be treated as garbage. In another

situation where “an eye for an eye” is impractical is a collapsed house situation.

Some may see the stealing scenario as a weak punishment that will not help prevent further crimes. However, if there was an incentive added to the punishment afterwards, it could assist. Give the boy a small future where he can work for his food after his debt is paid. If he is taught how to live properly in the society, he will not be likely to commit the crime again. Today’s societal values are completely different than those of Hammurabi’s time. In which a criminal is most likely to spend time in jail or pay the value of damage done and compensation. Something like a life for a life is not as common nor is it as practical. If an improperly built house were to collapse and kill the house owner’s wife, then the appropriate punishment should be to kill the house builder’s wife in return, according to the lex talionis code. However, the wife in this case is innocent, so it would be irrational to kill an innocent person rather than the person who built the house. That being said, lex talionis is shown to have several flaws and is not always the best option to take.

A criminal should be judged on the severity of the crime and their circumstances before deciding the punishment. Although, this lex talionis may have had some effectiveness back in the Ancient Mesopotamian period, it fails to hold much value in today’s society. Lex talionis can be interpreted in more than one way. The most popular being having “an eye for an eye”; or the literal translation of the “law of reciprocity”. Society should look at the different definitions and branch off finding their own way of justice. If a thief getting his hand mutilated will decrease criminal rates, then in the case of a child, should the punishment differ? Or should the government set the child back in the right direction, so he or she can later benefit the society in some way. And in the case of lies, if we were to always follow the “eye for an eye” code, everyone will be walking around without speech.