

## The Permissibility of the Atonement as Penal Substitution

Christians have traditionally believed that Christ's passion and particularly his death on the cross free us from sin's bondage and punishment, allowing us to be reconciled to God. This belief is known as the doctrine of the atonement. The problem is to understand exactly how the atonement works. Many different models have been proposed, among which is the penal substitution model. On this view, Christ takes the punishment for our sin so that we do not have to suffer it. It is commonly thought that the penal substitution model faces a decisive objection: that it is morally wrong to have the innocent take the punishment for the guilty.<sup>1</sup> I will argue that this objection does not succeed with respect to the atonement. Although penal substitution is typically wrong, I will show that it is permissible when certain conditions are met, and I will argue that the atonement meets them. These conditions are:

- 1) The offender cannot bear the punishment that he deserves.
- 2) A substitute can bear that punishment and is willing to do so.
- 3) There is no viable alternative to the offender taking that punishment but penal substitution.
- 4) The substitute's taking the punishment enables the offender to be restored to the status that he would have had were it not for his wrongdoing.

Before turning to this argument, I should be upfront about what I am not arguing for. First, I am not arguing that the penal substitution model is correct, as there may be other reasons

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<sup>1</sup> For example, Kant thinks that penal substitution is immoral for this reason (Kant, *Religion within the Boundaries of Mere Reason*. 1793. George Di Giovanni (trans.), 57–215.), as does Faustus Socinus (Socinus, *De Jesu Christo Servatore*, 1578) and, as a contemporary example, Keith Ward (Ward, *Ethics and Christianity* (London: George Allen & Unwin Ltd., 1970), 240).

– philosophical or theological – to reject it. Yet, in overcoming an objection that often leads to its quick dismissal, I do take myself to be making the penal substitution model much more plausible. Second, I am not arguing that the penal substitution model is capable of standing on its own as a model of the atonement. It may need another model to supplement it. In fact, I will show that there is good reason to combine the penal substitution model with a “participatory” model, whereby we participate vicariously in Christ’s death and resurrection. If that is right, then this paper focuses on just one aspect of the atonement.

## I. The Problem with Penal Substitution

Many people have thought that the penal substitution model faces a simple and devastating problem: it is morally wrong to have an innocent person take the guilty’s punishment, even if the innocent person is willing. If this is so, God would do something morally wrong in having Christ take our punishment, and surely, we should not understand the atonement in terms of God’s doing something morally wrong. Hence we should reject the penal substitution model – or so the objection goes.

In “Do We Believe in Penal Substitution?,”<sup>2</sup> David Lewis bluntly says that Christians are inconsistent. On the one hand, they maintain that the innocent Christ takes the punishment for sin that they deserve, but on the other hand, they agree with our criminal justice system’s view that an innocent person cannot take a criminal’s punishment, no matter how willing the innocent person is. After all, you never hear Christians arguing that just as Christ died for our sins, a loving mother who wants to serve her son’s prison sentence should be allowed to do so. Yet Lewis argues that we should not be too quick in rebuking Christians, since it turns out that we are all double-minded about penal substitution. This is reflected in the fact that, although we do not allow another person to serve an offender’s prison sentence, we do allow another person to pay an offender’s fine. Since we are all double-minded about penal substitution, Lewis thinks

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<sup>2</sup> David Lewis. “Do We Believe in Penal Substitution?”, *Papers in Ethical and Social Philosophy*, Cambridge: Cambridge University Press, 2000.

that this is evidence that penal substitution sometimes makes sense after all, even if we cannot say how.

Is paying someone else's fine really penal substitution? Lewis addresses two objections to this idea. First, we might argue that fines are really fees, and since fees are not properly considered punishments, neither are fines. Support for this view comes from the fact that fines such as parking tickets incur strict liability – so long as you commit the wrong, you must pay the fine, no matter how good of an excuse you have. Excuses, however, are relevant to punishment. If you have a good enough excuse for wrongdoing, you do not deserve punishment, and since fines such as parking tickets are not mitigated by excuses, they are not punishments. Lewis agrees that some fines are not punishments. However, he says, some fines would be inappropriate if the wrongdoer has a good excuse, and so some fines are punitive. We call these fines “punitive damages,” and, unlike compensatory damages, they are designed to punish. Yet even in these cases, Lewis maintains, we allow someone else to pay the fine.

This brings us to the second objection: we allow penal substitution in the case of fines only because it would be practically impossible to prevent it, not because we think that penal substitution is okay in these instances. To this objection, Lewis points out that if we disapproved of penal substitution for punitive fines, then we ought to conclude that they are an inadequate form of punishment. Further, even if we continued to use them because the alternatives were worse, “our dissatisfaction ought to show. Yet it does not show. The risk of *de facto* penal substitution ought to be a frequently mentioned drawback of punishments by fines. It is not.”<sup>3</sup> From this, Lewis concludes that we are all of two minds about penal substitution and that this is evidence that penal substitution sometimes makes sense after all, even if we cannot say how.

In response, Philip Quinn argues that Lewis dismisses the second objection too quickly.<sup>4</sup> Quinn claims that our dissatisfaction with penal substitution for punitive fines does show, or at least can be brought out in the right circumstances. To show this, Quinn solicited intuitive responses to the following example. A professional baseball star is called out on strikes and is so enraged by the call that he punches the umpire. The Commissioner of Baseball then fines the player a substantial but reasonable amount, to which the player's adoring fans respond by giving money to the player who uses it to pay his fine. Quinn claims that the majority of respondents

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<sup>3</sup> Lewis, 135.

<sup>4</sup> Philip L Quinn. “David Lewis, *Papers in Ethics and Social Philosophy*”, *Nous*, 38:4 (2004) 711-730.

expressed dissatisfaction with the outcome because of the penal substitution. Quinn also appeals to legal cases in which judges who favor allowing businesses to have insurance against punitive damages cite only practical reasons for it. From these examples, Quinn concludes that we do not approve of penal substitution for punitive fines but allow it for practical reasons.

I agree with Quinn that the baseball player should pay his own fine and that a business, rather than its insurance company, should pay punitive damages. Hence I take Quinn's examples to show that we do not find penal substitution in the case of punitive fines unproblematic. However, Lewis also seems to have a point: our dissatisfaction really ought to show more, and the fact that it does not is evidence that we do not always find penal substitution objectionable. Is there a way to make sense of both Lewis and Quinn on this issue?

## II. The First Two Conditions

I believe that we can account for both Lewis's and Quinn's points. First note that the dissatisfaction that Lewis claims ought to show more is general dissatisfaction with penal substitution for punitive fines, whereas Quinn points out that there are specific instances of it that we find problematic. Hence we may not show general dissatisfaction with penal substitution for fines because there are instances of it that we do not find objectionable; Quinn's examples just happen to be objectionable instances.

If this is right, what makes Quinn's examples objectionable? They are objectionable, I believe, because it is natural to assume that the offenders in his examples can bear their punishments. A star professional baseball player has more than enough financial resources to pay his fine and businesses typically have sufficient financial resources to pay punitive damages. Because the wrongdoers in these cases can bear their punishments, it seems wrong to shift them to somebody else. However, what if the offender cannot bear the punishment but a penal substitute can and is willing to do so? If these conditions were necessary and jointly sufficient for the permissibility of penal substitution, it would explain why Quinn's examples are morally objectionable while illuminating our "double-mindedness": our general dissatisfaction with penal substitution in the case of prison sentences but not in the case of punitive fines. After all, we

consider a prison sentence to be a punishment that anyone can bear;<sup>5</sup> however, someone could be fined more than he could financially bear.

Therefore, the following suggestion makes sense of both Lewis and Quinn:

Penal substitution is permissible if and only if:

- 1) The offender cannot bear the punishment.
- 2) A substitute can and is willing to do so.<sup>6</sup>

However, as we will see, these conditions are not jointly sufficient for the permissibility of penal substitution. Two more conditions must be met. Since these remaining conditions hold for punitive fines, we will still be able to account for both Lewis' and Quinn's points.

Before turning to these other conditions, though, let's first see whether conditions 1) and 2) are met with respect to the atonement. I will now argue that it is reasonable to think that they are. Yet note that this may be so even if the following arguments are flawed, since there are various ways to understand the theological issues at stake – e.g., what the punishment for our sin is, how Christ can take that punishment – such that we cannot bear the punishment for our sin but Christ can and is willing to do so.

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<sup>5</sup> Even the physically ill can bear a prison sentence in the medical wing of a prison or surrounded by guards in a regular hospital. The mentally or psychologically ill may not be able to bear a prison sentence, but in these cases, the agents would meet an exempting condition that would make them inappropriate objects of punishment anyway.

<sup>6</sup> I should clarify condition 2) in two ways. To start, it may not be strictly necessary. Assuming that the other conditions of permissibility are met, penal substitution may be permissible if the substitute cannot bear the punishment that the offender deserves but can bear an equivalent or greater one. I will ignore this complication, as we can consider condition 2) to be shorthand for “a substitute can take that punishment, or an equivalent or greater punishment, and is willing to do so.” Plus, I will only argue that conditions 1) - 4) are jointly sufficient for the permissibility of penal substitution and that the atonement meets them. Since Christ can bear the punishment for sin that we deserve, condition 2) is met for the atonement without qualification. Second, we should interpret the substitute's willingness in condition 2) to be willingness for the right kind of reasons. After all, if A is willing to take B's punishment in the hopes that B will then later do something that warrants a greater punishment, it seems impermissible for A to be B's penal substitute. Again, we need not worry about this issue, as Christ would be willing to be our penal substitute for the right kind of reasons. I thank Samuel Baker for raising these two issues.

### III. Meeting Condition 1): We Cannot Bear the Punishment for our Sin

To determine whether we can bear the punishment for our sin, we must know what that punishment is. It is a common view amongst Christians that sin is intimately connected to death, and the standard view amongst penal substitution theorists is that death is the punishment for sin on the grounds that death is what we deserve for sin. (The verse “[f]or the wages of sin is death...”(Romans 6:23 NRSV) is often thought to support this idea.) Hence I will assume that death is the punishment for our sin. Should we understand “death” to mean physical death? Spiritual death? Both? It seems to me that the punishment for sin cannot be just physical death, as people whom Christ has saved still physically die. I take it, then, that the punishment must be spiritual death or both spiritual and physical death. I will now work with the idea that the punishment for sin is spiritual death. It should be noted, though, that my arguments would go through equally well – and often more easily – if the punishment were only physical death, and hence my arguments would go through equally well if the punishment were both spiritual and physical death. Hence, although there may be good reasons to suppose that the punishment is both spiritual and physical death, I need not adjudicate that debate for my purposes and will work with the simpler view.

You might raise the following worry. If the punishment for sin is spiritual death, it looks like condition 1) above is not met. After all, whatever spiritual death amounts to, we would surely be capable of suffering it; doesn’t this mean that we can bear the punishment for sin? I think not. To see this, we must distinguish between fulfilling a punishment and bearing a punishment. Roughly, to fulfill a punishment is to complete the terms of the punishment, whereas to bear a punishment is both to fulfill it and to hold up under it in the relevant way. Although this is rough, I am appealing here to an intuitive distinction, which we can get at with paradigm examples. Take the case of a person who is sentenced to receive fifty lashes. If he receives the fifty lashes but then dies as a result of his wounds, he fulfills the punishment but was not physically able to bear it. Or consider a person who is fined an amount of money equivalent to his net worth and who has no prospects of future income or support. He is capable of paying the fine and so fulfilling the punishment, but he cannot bear it financially, since the punishment would financially ruin him. Finally, consider the case of a person who goes insane in prolonged solitary confinement. He is able to fulfill the punishment, but he cannot psychologically bear it.

Notice then that the death penalty is a clear example of a punishment that we can all fulfill but not bear, since physical death destroys us physically (barring resurrection). Similarly, I will argue, spiritual death is a punishment that we can fulfill but cannot bear spiritually. First, it is reasonable to think that the term “spiritual death” is meant to convey a punishment that we cannot bear spiritually. Second, even on a relatively weak but still reasonable understanding of spiritual death, we cannot bear it. By this, I have in mind spiritual death as alienation or estrangement from God, in a way analogous to how people can be alienated or estranged from one another. It makes sense that sin would alienate us from God because, when we sin, we disobey God and so wrong Him, resulting in a broken relationship with Him and the loss of the benefits of that. Further, it would be inappropriate for God to confer the benefits of an intimate relationship on us anyway (for those benefits that could be conferred anyway) because we do not deserve them, since the lack of relationship is our fault. Perhaps spiritual death is more than estrangement from God, but to make my points, I only need to assume that our punishment is this reasonable consequence of sin. An advantage of assuming this, we will see in Section VI, is that it reveals that the penal substitution model can help to deal with sin as a relational or ontological problem.

You might think, contrary to my claim, that we can bear spiritual death on this understanding of it. If spiritual death is alienation from God, we would lose out on certain goods that come from being in a right relationship with Him, but this seems *bearable*. We might even think of this existence as akin to that of the virtuous pagans in the First Circle of Dante’s Hell.<sup>7</sup>

However, if we assume that we are designed to be in intimate fellowship with God, it is reasonable to think that alienation from Him would destroy us spiritually by cutting us off from that which we need to be spiritually healthy and function well. This could mean that we would eventually cease to exist apart from fellowship with God, but it need not mean anything this strong. It would be enough to say that we cannot bear the punishment if our spiritual states would somehow become severely stunted or crippled apart from fellowship with God, such that, for example, we were no longer capable of appreciating or doing good. We can think of this analogously to the solitary confinement case mentioned above. Because we are social beings who need social interaction to be healthy and function well, we cannot psychologically bear prolonged solitary confinement in that we cannot experience it and remain psychologically

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<sup>7</sup> I thank Gideon Rosen and C.R. Dodsworth for this objection.

healthy. Similarly, if we are constituted so as to need fellowship with God – as it is reasonable to assume in a discussion of the atonement – then it is reasonable to think that we can fulfill but cannot spiritually bear alienation from God, as we cannot be spiritually healthy apart from Him.<sup>8</sup>

You may now have a different worry: is alienation from God really a punishment, as I am claiming? After all, as I said above, it is a reasonable consequence of our sin for our relationship with God; yet we do not typically think that the reasonable consequences of our bad actions for human relationships are punishments. Consider a wife who is estranged from her husband due to his repeated affairs. It sounds wrong to say that he is punished by the loss of an intimate relationship with her, as it is a reasonable consequence of his harming her. If his estrangement from his wife is not a punishment, then it seems wrong to say that alienation from God is a punishment. So a penal substitute would not be necessary.

I agree that it sounds wrong to say that the husband is punished by the loss of the intimate relationship with his wife. The word “punishment” in the context of personal relationships tends to be reserved for retribution-seeking responses toward the wrongdoer, rather than for reasonable consequences of wrongdoing. Further, we tend to reserve “punishment” for cases in which there is an authority relationship rather than a peer relationship. Yet I think that there is a reasonable understanding of punishment on which both the husband’s estrangement from his wife and our estrangement from God count as punishment: namely, punishment as being deprived of something valuable which is no longer deserved because of wrongdoing.<sup>9</sup> The cheating

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<sup>8</sup> You might worry that alienation from God cannot be the punishment for sin, since sin would alienate us from God on Earth, not just after we physically die. To start, notice that this concern is obviated if we accept that the punishment for sin is both spiritual and physical death. However, if we assume that the punishment is just alienation from God, I think that we can reasonably accept that it begins on Earth. It would make sense of our being “dead through our trespasses” here on Earth and then being made “alive together with Christ” when we accept Christ’s atoning work (Ephesians 2:5 NRSV). Yet there may be significant differences between that punishment on Earth and after death. For example, we may have the possibility of reconciliation with God only while on Earth. Or we may be more alienated from God after physical death, since we may still enjoy some blessings from God on Earth.

<sup>9</sup> I take this understanding of punishment to be a broadening of Bedau and Kelly’s definition of punishment under law as the “*authorized imposition of deprivations — of freedom or privacy or other goods to which the person otherwise has a right, or the imposition of special burdens — because the person has been found guilty of some criminal violation...*” (Hugo Adam Bedau and Erin Kelly, “Punishment”, *The Stanford Encyclopedia of Philosophy* (Spring 2010 Edition), Edward N. Zalta (ed.), URL = <http://plato.stanford.edu/archives/spr2010/entries/punishment/>, italics theirs.) My understanding of punishment is broader in two ways. First, it refers to desert rather than rights,

husband's attitudes and behavior preclude an intimate relationship with his wife, and the fact that it is his wrongdoing that precludes the intimate relationship – rather than, say, a major health issue – also makes it the case that he no longer deserves that relationship. He also does not deserve the benefits of an intimate relationship, including ones that could still be conferred. For example, he does not deserve for his wife to think fondly of him, to act affectionately toward him, or to support him in his professional endeavors. An estranged wife treats her cheating husband as he deserves to be treated rather than carrying on as if the affairs had not happened, and as a result, the cheating husband is deprived of something valuable – an intimate relationship with his wife and the benefits of that – which he no longer deserves due to his affairs. Similarly, when we are alienated from God because of our sin, we are deprived of something valuable – an intimate relationship with God and its benefits – that we no longer deserve because of sin. So, on the above understanding, both cases count as punishment. The fact that they are reasonable consequences of wrongdoing only shows that we should not conceive of punishments solely in terms of retribution.

Conceiving of our punishment for sin in this way also helps to avoid a couple of worries. First, if alienation from God is a reasonable consequence of sin, we avoid the worry that a retributive God does not square well with a perfectly loving God. Second, we avoid the worry that the punishment for sin is disproportionate. That worry can be put like this: spiritual death is much worse than a few years in jail; yet most people never do anything bad enough to deserve the latter. So how can everyone deserve spiritual death?<sup>10</sup> Yet if our punishment for sin is alienation from God, we deserve it for breaching our relationship with Him through our disobedience, just as the cheating husband deserves to be alienated from his wife for breaching their relationship. The fact that most of us do not deserve jail time is beside the point.

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since talk of rights is too narrow and may be out of place in personal relationships. Second, my understanding does not require an authority relationship, as the “*authorized* imposition of deprivations” seemingly would. Yet even if punishment requires an authority relationship, this would not undermine my claim that alienation from God is a punishment, since presumably He has authority over us.

<sup>10</sup> I thank Gideon Rosen for this objection.

#### IV. Meeting Condition 2): Christ Can and Is Willing to Bear the Punishment for our Sin

Assuming that the punishment for sin is spiritual death, can Christ's physical death on the cross fulfill that? The answer depends upon whether a substitute must suffer the exact punishment that the offender deserves or just one that reflects the seriousness of the wrongdoing. If the latter, Christ's physical death may be all that is needed, since an agonizing death on the cross certainly reflects that sin is awful. The Resurrection would then show that he can bear our punishment. However, let's suppose the stronger claim that a substitute must suffer the exact punishment that the offender deserves. In that case, Christ must suffer spiritual death – or alienation from God – in order to take our punishment. Can Christ even fulfill this punishment? You might worry that he cannot because he is a part of the Trinity that constitutes God and so cannot be alienated from God. This is a serious worry. To overcome it, I think that we can understand Christ's alienation from God like this: Christ qua human being is alienated from God the Father, even though Christ qua Son of God is not. Understanding exactly how this works would require understanding the difficult doctrines of the Incarnation and the Trinity, but given these doctrines, I think that it is reasonable to assume that this solution would work. Further, if Christ, in some sense, took our sins upon him, it is reasonable to think that these sins would alienate him from God the Father, just as they alienate us from God the Father. In addition, the idea that Christ is alienated from God the Father would make sense of Christ's quoting of Psalm 22:1 while on the cross: "My God, my God, why have you forsaken me?" (Matt 27:46 NSRV). It would also make sense of the fact that he suffered the particular physical death that he suffered: death on a cross. For a Jewish person of the time, dying by being hung from a tree demonstrated being cursed by God (see Deuteronomy 21:23 and Galations 3:13). Thus I take it that Christ can fulfill our punishment for sin of alienation from God.

In making this claim, it is important to be clear that alienation from God is the consequence of sin and not the sin itself. In other words, the attitudes and behavior that constitute sin, whatever they are, do not constitute the alienation from God but rather bring about

that alienation. Hence, Christ's alienation from God does not entail the problematic idea that he has the attitudes and behavior that constitute sin.<sup>11</sup>

So Christ can fulfill the punishment for sin; can he also bear it? I think that he can. First, if we assume that Christ is alienated from God the Father upon the cross, the Resurrection indicates that he bore physical death *and* alienation, since the resurrected Christ qua human being clearly has an intimate relationship with God the Father, as evidenced in his interactions with the disciples and in the Ascension. How can Christ bear that alienation when we cannot? Perhaps because Christ never sinned or because he has a divine as well as human nature, he is not irrevocably damaged from estrangement from God the Father like we would be. Further, because he never sinned, there is nothing to prevent him from re-entering into an intimate relationship with God the Father. I do not think that we need to determine an exact mechanism by which Christ can bear alienation from the God the Father, since it is reasonable to think that, being sinless and divine, he can bear spiritual as well as physical death.

It is also reasonable to think that Christ was willing to be our substitute, since Scripture and Christian tradition teach that he loves us so much that he was willing to die for us. It is therefore plausible to think that conditions 1) and 2) are met for the atonement: we cannot bear the punishment for our sin, but Christ can and was willing to do so. Notice also that this holds if our punishment for sin is both spiritual and physical death. I have just dealt with spiritual death. As for physical death, we cannot bear it, but Christ can and was willing to do so, as is evident from his willing physical death on the cross and Resurrection.

Before turning to the other conditions that must be met for penal substitution to be permissible, let me briefly address an objection that will help to clarify condition 2). Consider the following potential counterexample.<sup>12</sup> Imagine that an offender is sentenced to fifty lashes, which he deserves, but he cannot bear the punishment. He therefore meets condition 1). Further, although I have not yet defended these conditions, assume that conditions 3) and 4) are met: there is no viable alternative to his taking that punishment except penal substitution, and a substitute's taking the punishment would restore him to the status that he would have had were it not for his wrongdoing. Now suppose that a woman has a skin condition that makes her skin as hard as a rock, and she is willing to receive the fifty lashes on the offender's behalf. It now

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<sup>11</sup> I thank William Abraham for pressing me to be clear on this point.

<sup>12</sup> I thank Timothy Pawl for this counterexample.

appears that condition 2) is met: due to her skin condition, she can bear his punishment and is willing to do so. However, so the objection goes, her receiving the lashes would not be a permissible instance of penal substitution, even though the four conditions are met which I claim are jointly sufficient for its permissibility.

I think that condition 2) is not met in this example. The woman with the rock hard skin cannot take the punishment that the offender deserves because it is not a punishment which she could fulfill and hence not a punishment that she could bear. This is because punishment conceptually requires deprivation or suffering, which in this case would be the pain of the lashes. Since the woman cannot feel the pain of the lashes, she cannot take the punishment for the offender. To see this more clearly, consider two variant cases. First, imagine that the offender puts on a suit of armor so that he cannot feel the lashes. If he receives the lashes while wearing the armor, it is obvious that he has not received the punishment. The punishment is not just receiving fifty lashes but the pain that it brings.<sup>13</sup> Second, imagine that the woman with the rock hard skin is the offender. In that case, if she receives fifty lashes, it seems to me that she has not undergone a punishment at all precisely because she experiences no pain from the lashes. We can even imagine that she finds the lashes soothing and so pleasurable, which makes it more obvious that she has not undergone a punishment by receiving the lashes. Hence, in the original example, the woman's rock hard skin precludes her from taking the offender's punishment and so from bearing it. Condition 2) is not met.<sup>14</sup>

This is important with respect to the atonement. In order for Christ to meet condition 2) – in order for him to be able to bear the punishment for sin that we deserve – he must be able to take that punishment, which requires being able to experience the deprivation or suffering inherent in it. Hence Christ must be able to experience the deprivation and suffering inherent in

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<sup>13</sup> I thank Lara Buchak for this example.

<sup>14</sup> If I am wrong that punishment conceptually requires deprivation or suffering, I can modify condition 2) to avoid the counterexample. Notice that punishment at least aims at some sort of deprivation or suffering for the one being punished, which we can call a “loss.” I can then modify condition 2) to say: the substitute can take the punishment and its associated loss and bear them, and is willing to do so. The woman with the rock hard skin does not meet this modified condition 2) because she cannot experience the pain of the lashes. Yet Christ meets the modified condition 2): he can take and bear the punishment of alienation from God and the deprivation and suffering associated with it, and is willing to do so. I thank Timothy Pawl, who had in mind such a modification of condition 2) in raising his counterexample, for discussion on this point.

alienation from God. Given his human nature and experience on the cross, is reasonable to think that he can and did experience that.

## V. The Third Condition

### V.1. Motivating Condition 3): The Leniency Objection

We need another condition for the permissibility of penal substitution in order to overcome what would otherwise be a devastating objection. The objection is this: penal substitution is not permissible even when the offender cannot bear the punishment but a willing substitute can because then we should substitute a different punishment that the offender can bear or let him off the hook. To see the force of this objection, consider a mother who knows that her son is too psychologically fragile to bear the punishment that he deserves but that his innocent sister could psychologically bear it. It seems ludicrous to say that the mother should have his sister take his punishment, even if she were willing. Instead, the mother should let her son off the hook or substitute a punishment that he can bear. Call this objection the *Leniency Objection* and the example to illustrate it the *Mother/Son Example*.

Notice that these alternatives are unavailable for punitive fines because our legal system does not allow judges to substitute punishments or let criminals off the hook. Why then do we consider these alternatives to be legitimate in the Mother/Son Example? The salient difference, I think, is that the mother is both the creator and the enforcer of the rules for her son, whereas in our legal system, those who create the law are not the same as those who enforce it. Because the mother plays both roles, she has the authority to decide whether and how she will enforce her rules on particular occasions. This is because the authority that she has to create the rules and the consequences for breaking them gives her the authority to alter them as she sees fit (within certain bounds, e.g., morality). Hence she does nothing wrong if she chooses to substitute a different punishment or let her son off the hook. In fact, when her son cannot bear the punishment, she seems to do the morally right thing if she mercifully uses her authority to opt for one of these alternatives. However, because our legal system separates these roles, those who

enforce the law do not have the authority to carry out punishments in any way other than how the law prescribes.

Given this, it seems that penal substitution in the case of the atonement is impermissible because, like the mother, God is both the creator and the enforcer of His laws. Hence it seems that He should substitute a different punishment for our sin that we can bear or to let us off the hook rather than having the innocent Christ take our punishment.

I of course agree that the mother should substitute a different punishment that her son can bear or let him off the hook rather than have his innocent sister take the punishment. I will now argue, however, that these are not viable alternatives for God in responding to our sin, and so the atonement, but not the Mother/Son Example, meets condition 3): namely, that there is no viable alternative to the offender taking his punishment but penal substitution. To make this argument, I will appeal to the expressive function of punishment.

## V.2. The Expressive Function of Punishment

As Joel Feinberg points out, punishment is a conventional device for the expression of condemnation, incorporating negative reactive attitudes – e.g., resentment and indignation – and judgments of disapproval.<sup>15</sup> Feinberg discusses four functions of punishment that presuppose this expressive function, of which I will discuss two.

The first is authoritative disavowal. When someone is in a position of authority over an offender, punishment “is an emphatic, dramatic, and well-understood way of *condemning* and thereby *disavowing* his act.”<sup>16</sup> Punishment tells the world that the act was not permitted by the authority and hence that the offender had no right to act as he did. The authority’s failure to punish, however, tells the world that the authority approves of the offender’s action. Feinberg illustrates this idea with what I will call the *Pilot Example*. Suppose that a pilot from nation A shoots down a plane from nation B while over international waters. By punishing their pilot, nation A condemns and so disavows the pilot’s action. Punishment tells nation B and the rest of

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<sup>15</sup> Joel Feinberg. “The Expressive Function of Punishment”, in Feinberg and Coleman’s (eds.) *Philosophy of Law*, 7<sup>th</sup> Edition, Wadsworth, 2004.

<sup>16</sup> Feinberg, 764.

the world that nation A does not stand behind the pilot's action. If nation A does not punish the pilot, however, this inaction tells the world that nation A approves of the pilot's action, and hostilities between nation A and nation B will likely result. In the same way, punishment allows employers to disavow the acts of their employees and parents to disavow the acts of their children. Punishment as disavowal only makes sense if punishment expresses condemnation.

The second function is vindication of the law. If a law is not generally enforced, it loses its normative status *de facto*. Feinberg illustrates this idea with what I will call the *Racist Juries Example*: if grand juries in 1960s Mississippi refused to convict white people for the murder of black people, it is only in an empty sense that the murder of black people by white people was illegal in 1960s Mississippi. In order to express that the law means what it says, and so maintain the law's normative status, those who violate it must be condemned, and that condemnation is expressed by punishment.

Going back to the Mother/Son Example, we can now see that if the mother lets her son off the hook, she would not disavow his action nor vindicate her rules. This is not a problem if it happens once in awhile (so long as the case is not egregious). For example, if her son hits another child and she chooses to ignore it once, she would fail to disavow his action, but we should not then conclude that she approved of it. She would also fail to vindicate her rules, but we should not then conclude that her rules are not serious. However, suppose that she regularly allows her son to hit other children without punishment. If that were so, we would either think that she approved of his behavior or that she was too weak or afraid of her son to do anything about it, thereby doubting her moral goodness or authority, respectively. Importantly, this is not purely an epistemic issue about what we should conclude about the mother. If the mother is too weak or afraid of her son to punish him, she lacks authority over him *de facto*. By lack of enforcement, her rules would lose their normative status. On the other hand, if the mother is not too weak to punish her son but fails to do so, this actually undermines her moral goodness, at least to some extent. The mother, in her position of authority over her son, morally should express her disapproval of his bad behavior rather than express tacit approval of it.

A similar argument applies if the mother substitutes a less serious punishment. To see this, return to the Pilot Example and suppose that nation A punishes their pilot by not allowing him to fly for two days. In that case, nation A would fail to express the appropriate level of condemnation of the pilot's action and so would fail to appropriately disavow his action – in

other words, nation A would essentially be saying that the pilot's action is not as bad as it is. Hence hostilities between nation A and nation B would likely still result. Similarly, unless the mother expresses the appropriate level of condemnation, she does not appropriately disavow her son's action and would essentially be saying that her son's action is not as bad as it is. If she did this regularly, it would undermine her goodness as a moral agent, since a good moral agent would not minimize how bad the action is. Further, substituting a less severe punishment does not appropriately vindicate her rules, since, if done regularly, it would indicate that her rules are not to be taken as seriously as she claims.

Hence if the mother is to express the appropriate level of condemnation of her son's action, and hence appropriately disavow his action and vindicate her rules, the punishment that she gives her son must reflect the degree of seriousness of his wrongdoing. She may occasionally be merciful by letting him off the hook or substituting a less serious punishment, but because punishment expresses condemnation, she cannot regularly do so without undermining her moral goodness and the authority of her rules.

This applies to God too. If God lets us off the hook for a bad action, he fails to disavow our action and vindicate His laws. This is okay once in a while. But if He did it regularly, He would indicate that he approves of the action, which would undermine His moral goodness, since a perfectly good moral agent in a position of authority would express disapproval of bad actions rather than tacitly expressing approval of them. Further, by failing to condemn bad actions, His laws would lose their normative force de facto. Similarly, if God substitutes a less severe punishment, the punishment would not reflect the seriousness of the wrongdoing, and so He would not appropriately disavow the action nor vindicate His laws. If He did this regularly, he would be saying that the action is not as bad as it really is, again undermining His goodness and the authority of His laws. Thus if God is to take sin appropriately seriously, He must regularly condemn it by punishing us in way that adequately expresses how bad it is.

### V.3. Overcoming the Leniency Objection via Condition 3)

In the Mother/Son Example, there are three facts, I think, that explain our intuition that it is impermissible for the innocent daughter to serve as a penal substitute, even if she were willing.

The first is that we assume that the mother has the option of substituting a punishment that the son can bear that is equally condemnatory. If the son cannot emotionally bear being sent to his bedroom, for example, because he is deeply afraid of being left alone, then the mother can surely find an equivalent punishment that he can emotionally handle, such as having to do extra chores.<sup>17</sup> When we can substitute an equally condemnatory punishment, penal substitution is clearly wrong. However, even if there is no other equally condemnatory punishment, we still do not think that the daughter should take the punishment. This is due to the second fact: we are looking at a particular case in isolation. Looking at this case in isolation, we see no reason for the mother not to be lenient, since occasional acts of mercy do not undermine the mother's moral goodness and authority. So she should let her son off the hook or substitute a less severe punishment that he can bear.

However, what if the son frequently breaks his mother's rules but can never bear the punishment that he deserves nor any equally condemnatory punishment? Of course, this is completely unrealistic, but even in such an unrealistic case, it seems to me that the mother should still substitute a less severe punishment or simply let her son off the hook every time. The reason is this. If the mother is consistently lenient with her son, she will undermine the authority of her rules and fail to appropriately disavow his wrong actions, thus communicating to the world that his wrong actions are either okay or not as bad as they are. However, it seems to me that the other options – having the innocent sister take the punishment or giving the son a punishment that he cannot bear – are worse. Thus punishing her son would undermine the mother's moral goodness in this case, whereas usually failing to punish him would undermine her moral goodness.

Why is this so? To answer this question, let's first consider why authoritative disavowal is important. As I mentioned above, when an authority fails to punish an offender, it expresses that the authority approves of the wrongdoing. This typically undermines the moral goodness of the authority, since it is the right thing for the authority to express disapproval rather than tacit approval. One significant reason why the authority should express disapproval is respect for the

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<sup>17</sup> Of course, it is farfetched to think that a child could not bear being sent to his bedroom. If a child cannot bear a parental punishment, the reasonable thing to think is that the punishment is disproportionate. But this just reinforces that the atonement is a special case and that in real-life cases of parental punishment, penal substitution will always be impermissible, as we intuitively think.

victim. When the authority punishes the wrongdoer, he validates the victim's moral status by communicating that the victim does not deserve to be treated in that way. Look again at the Pilot Example. When nation A punishes the pilot who shot down nation B's pilot, this act communicates respect for nation B. It says that nation B and its citizens do not deserve to be treated in that way, and so it validates the political status of nation B and the moral status of its citizens. If nation A refuses to punish, on the other hand, nation B will feel disrespected by nation A. Or consider the Racist Juries Example. When white juries refuse to convict white people for the murder of black people, this shows disrespect for the black victims and, by extension, all black people due to the underlying racism. If the white juries instead convict white murderers, it validates the moral status of the black victims and, by extension, all black people, saying that they do not deserve to be treated in that way. Similarly, if a parent punishes a child for hitting another child, it validates the other child's moral status, communicating that the other child does not deserve to be treated like that.

Now return to the Mother/Son Example. If the mother does not appropriately disavow her son's wrong actions through punishment, she fails to communicate respect for the victims of his wrongdoing and hence fails to validate their moral status as people who do not deserve to be treated in that way. However, in spite of this bad outcome, the mother should still be lenient to her son when he can never bear the punishment that he deserves nor any equivalent one. The reason is this: the mother bears a special relationship to her son that she does not bear to the victims of his wrongdoing. (I am here assuming that the victims are not his siblings.) This reason is the third fact that explains why we do not think that penal substitution is appropriate in the Mother/Son Example. A mother's duty to take care of her son – by, for example, not bringing about circumstances in which he cannot flourish – outweighs her duty to show respect to the victims of his wrongdoing when these conflict, as they do when he cannot bear the punishment that he deserves nor any equivalent one. Because this is so, the mother should let her son off the hook or substitute a less severe punishment that he can bear, and penal substitution would be wrong.

But what if the victim of the son's wrongdoing is typically or even always his sibling? In this case, the mother has two duties: a) the duty to validate the moral status of the child who is the victim, thereby communicating that her child does not deserve to be treated in that way and b) the duty to take care of the child who is the offender. Which duty should trump? It seems to

me that it is the duty to the child who is the victim, not the duty to the child who is the offender. As a result, unless penal substitution is an option, she should punish her son to the extent that he deserves even though he cannot bear it. Penal substitution appeals as a way to avoid giving her son a punishment that he cannot bear while still validating the moral status of the other child.<sup>18</sup>

Of course, to reiterate, a real-life mother will never be in such a position. But God is. To start, there is no other punishment as condemnatory as spiritual death for God to substitute. Further, although God can be merciful in particular instances without undermining His moral goodness and authority, this would not be enough to save any of us, since the sin that He did take appropriately seriously would condemn each of us to spiritual death.<sup>19</sup> Finally, God has a special relationship to offenders and victims alike. Thus he has a duty to express respect to the victim of wrongdoing and validate his or her moral status as someone who does not deserve to be treated that way by punishing the wrongdoer in an appropriately condemning manner. This duty, as we have just seen, trumps His duty to take care of the offender by not bringing about circumstances in which he cannot flourish. Thus, contrary to the Leniency Objection, God should not let us all off the hook or substitute a less severe punishment that we can bear but should instead validate the moral status of our victims. So if he does the former, He undermines his moral goodness and the authority of His laws.<sup>20</sup>

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<sup>18</sup> Remember that condition 4) must also be met for penal substitution to be permissible – i.e., the innocent daughter's taking the punishment for the son must enable him to be restored to the status that he would have had were it not for his wrongdoing. The addition of that condition, which I discuss in the next section, will hopefully help to assuage any remaining concerns about this case. Further, to anticipate, condition 4) shows that penal substitution has an additional advantage: allowing the transformational function of punishment to occur.

<sup>19</sup> Perhaps God could let a few of us off the hook and still take sin seriously enough. However, this favoritism would not be consistent with God's justice nor His claim to love each of us equally.

<sup>20</sup> If we wrong God when we sin, as Christians often think, does He have a duty to validate His own moral status by punishing us? Certainly, God does not need us to treat Him well for His own sake. However, if He fails to validate His moral worth when we wrong Him, it falsely expresses that it is okay to treat Him like that. Misrepresenting His moral worth conflicts with His moral goodness and would be a substantial stumbling block to our having a proper relationship with Him as a being who deserves our love and adoration. Further, when we wrong God, His failure to punish us would still undermine His authority. Yet even if it is permissible for God to let us off the hook when He is the victim of our wrongdoing, we wrong each other enough that the situation would be unchanged: God should validate the moral status of our (human) victims rather than letting us off the hook or substituting a less severe punishment. I thank Laura Ekstrom for raising this question.

Hence, without penal substitution, God seems to have a choice between subjecting us all to spiritual death, which we cannot bear, and not taking sin seriously by validating the moral status of our victims, which would undermine His moral goodness and authority. Are our intuitions against penal substitution really so strong as to force such a choice? I do not think that they are. As Lewis points out, we do not seem generally dissatisfied with penal substitution in the case of punitive fines, so why then would we be dissatisfied with penal substitution when God would otherwise face such a stark choice?

Yet, more strongly, I do not think that God really has this choice.<sup>21</sup> It does not seem to be a live option for a perfectly good, all-powerful God to do something that would undermine His moral goodness and authority, since these are integral to His unchanging character. Hence, I take it, there is no viable alternative to our having to take the punishment for sin that we deserve but cannot bear *except* penal substitution.

This is important to the permissibility of penal substitution in the case of the atonement. It seems reasonable to think that penal substitution is permissible when there is no viable alternative to the offender taking a punishment that he cannot bear but penal substitution, and when there is a willing substitute who can bear that punishment. In other words, penal substitution seems permissible when:

- 1) The offender cannot bear the punishment that he deserves.
- 2) A substitute can bear that punishment and is willing to do so.
- 3) There is no viable alternative to the offender taking that punishment but penal substitution.

This would explain our “double-mindedness” about penal substitution: conditions 1) - 3) could be met with respect to punitive fines but not (generally speaking) with respect to prison sentences, as condition 1) would not be met, or with respect to parents disciplining children, as condition 3) would not be met. Further, I have argued, conditions 1) – 3) hold for the atonement. Yet these conditions are not jointly sufficient. We need one more condition, which punitive fines meet and, I will argue, the atonement meets too.

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<sup>21</sup> In Section VIII, I explore the possibility that God actually has this stark choice and argue that it is still permissible for Christ to be our penal substitute by weakening condition 3).

## VI. The Fourth Condition

### VI.1. Motivating Condition 4)

To see that we need one more condition, look again at punitive fines. When a person is fined, he takes on a certain status: that of a debtor. When he pays the fine or when someone pays it on his behalf, he is no longer a debtor. Hence, his previous non-debtor status is restored just through the fine being paid, whether he pays it or whether someone else does instead. If, contrary to fact, someone else were to pay his fine but he were to remain a debtor anyway, then the penal substitution would be pointless, as it would not restore the offender's status. This pointlessness, I take it, would make the penal substitution impermissible.

This, then, brings us to the fourth condition for the permissibility of penal substitution:

- 4) The substitute's taking the punishment enables the offender to be restored to the status that he would have had were it not for his wrongdoing.

I say "enable the offender to be restored" to make room for the possibility that, in some cases, the offender must respond in some way in order to appropriate the penal substitution and hence restore his status.<sup>22</sup> In the case of punitive fines, no such response is necessary. Once the fine is paid, the offender is no longer a debtor, even if he does not want to accept that the other person paid the fine on his behalf. Yet we can imagine having a legal system in which penal substitution for fines requires the offender to appropriate it. For example, imagine that the offender himself must present the money to a judge to pay his fine. In that case, a friend who wants to pay the fine must give the offender the money. Supposing then that conditions 1) - 3) are met – the offender cannot financially bear the fine, the friend can and is willing to do so, and there is no viable alternative to the offender paying the fine except penal substitution – it seems

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<sup>22</sup> Because of this possibility, it might be that the permissibility of penal substitution also depends upon whether the offender has some "reasonable chance" of appropriating the penal substitution. I will ignore this complication, taking it to be captured in the idea of enabling the offender to be restored. In other words, if the offender must have a reasonable chance of being restored but does not, then I will claim that the substitute's taking the punishment does not enable the offender to be restored, and so condition 4) is not met.

to me permissible for the friend to give the offender money to pay his fine, so enabling him to restore his status. Whether the offender then appropriates this by paying the fine is up to him (although he may act impermissibly if he does not).

You might now worry that condition 4) is too weak for penal substitution. After all, you might think, if the offender does not use his friend's money to pay the fine, the friend is not actually his penal substitute; a penal substitute must restore the offender's status, not just enable it to be restored. In response, notice that, when the friend hands over the money, he incurs a significant loss in order to provide to the offender the resources to pay his fine. In providing those resources, it is reasonable to say that the friend takes the punishment. Yet we might also, in line with the objection, say that the friend does not take the punishment, but only provides the means to take it, until the offender pays the fine and his status is actually restored. This indicates that there are weak and strong understandings of what it is to be a penal substitute. The friend is a penal substitute in the weak sense insofar as he provides to the offender the resources to pay the fine. He is a penal substitute in the strong sense insofar as he provides those resources and the offender actually uses them to pay his fine. Yet given that the weak sense of "penal substitute" is a reasonable one, this objection to condition 4) does not stand. In fact, we can understand condition 4) to say that the permissibility of penal substitution in the weak sense requires the possibility of penal substitution in the strong sense.

## VI.2. Condition 4) and the Atonement: Conceiving of Sin as Moral Debt

Let's now turn to the atonement. It is common in discussions of the atonement to conceive of sin as wrong actions that put us in moral debt to God and others. For example, Richard Swinburne claims that, if we unintentionally wrong someone, we owe him an apology and, if possible, reparation, and if we intentionally wrong someone, we also owe him repentance and penance. Swinburne uses this understanding of sin to motivate his sacrificial model of the atonement, according to which Christ's death on the cross serves as our reparation and penance.<sup>23</sup> As another example, arguing for the penal substitution model, Steven Porter says that our

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<sup>23</sup> Richard Swinburne, *Responsibility and the Atonement*, Oxford University Press, 1989. Note that the sacrificial model is distinct from the penal substitution model.

wrongdoing results in our having a “penal debt,” in the sense that we deserve to lose certain rights and privileges as a result of our wrongdoing, and Christ pays this penal debt on our behalf.<sup>24</sup> If we should conceive of sin as a moral debt of some kind, then we can understand penal substitution in the case of the atonement analogously to penal substitution in the case of fines. We are debtors to God as a result of our sin, and Christ enables us to be restored to our non-debtor status.<sup>25</sup>

I say that Christ enables this because, unlike in the case of punitive fines, it is doubtful that our status before God is restored whether we like it or not. Rather, like the above case of the friend who must give the offender the money to pay his fine, it seems that we must appropriate Christ’s atoning work on our behalf. In other words, he is our penal substitute in the weak sense, providing us the resources to restore our non-debtor status before God. If we appropriate that, he becomes our penal substitute in the strong sense, such that we are no longer in moral debt to God. This point might go some way toward reconciling the sacrificial model and the penal substitution model of the atonement. Because we have to appropriate Christ’s atoning work, there is a sense in which we have to offer Christ’s death on the cross up to God as payment for our moral debt, just as, in the Old Testament, the Israelites had to offer up the deaths of sacrificial animals. Unlike Swinburne’s sacrificial model, though, in offering up Christ’s death to God, we are not (just) offering reparation and penance. We are offering up his death to take the place of our own. We are offering Christ as our penal substitute.

### VI.3. Condition 4) and the Atonement: Conceiving of Sin as an Ontological and Relational Problem, and Bringing in the Participatory Model of the Atonement

Yet if our punishment for sin is alienation from God, as I am assuming, it seems wrong to think of sin solely as wrongdoing that puts us in moral debt to Him. Our wrongdoing, after all,

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<sup>24</sup> Steven L. Porter, “Swinburnian Atonement and the Doctrine of Penal Substitution,” *Faith and Philosophy*, Vol. 21, No. 2, April 2004.

<sup>25</sup> You might worry that understanding sin as a moral debt that must be paid is too retributive for the expressive function of punishment. I do not think so. Punishing someone as he deserves, so that he satisfies his moral debt, serves to communicate the appropriate level of condemnation central to the expressive function of punishment.

typically results from and expresses our bad attitudes towards God and others, and these attitudes themselves alienate us from God. In fact, they seem to be the primary cause of our alienation from Him for two reasons. First, wrongdoing that does not result from bad attitudes is often excused. Second, even if we managed to never express our bad attitudes through wrongdoing, we would still be alienated from God because these attitudes would keep us from having an intimate relationship with Him.

How else, then, should we conceive of sin? Tim Bayne and Greg Restall claim that Scripture seems to conceptualize sin not primarily as a *deontological* problem – as a problem of wrongdoing – but as an *ontological* problem and a *relational* problem.<sup>26</sup> As an ontological problem, sin is a “feature or element of human nature... something from which we suffer,” along the lines of an illness.<sup>27</sup> As a relational problem, sin is a problem of broken or alienated relationships. Both of these conceptions of sin fit well with the idea that our punishment for sin is alienation from God. If we think of sin as a matter of having faulty attitudes toward God and others, these attitudes naturally alienate us from God, resulting in a broken relationship with Him. Further, if these alienating attitudes are a feature of our fallen human nature, as is reasonable to assume on a Christian worldview, then sin would be an ontological problem too.

Let’s assume then that we should also think of sin as an ontological and relational problem – as a matter of having, as a result of our fallen human nature, faulty attitudes toward God and others. In that case, would penal substitution still be permissible? It may seem not. If Christ suffers alienation from God in order to take the punishment for our sin, this may pay the moral debt that results from our wrongdoing, but it does not itself change our faulty attitudes. And if it does not change our faulty attitudes, then we are still alienated from God. Moreover, since we cannot change these attitudes on our own in response to Christ’s taking our punishment – they are part of our fallen human nature, after all – it seems that his taking our punishment does not enable us to be restored to a non-alienated status with God. The upshot is that condition 4) would not be met, and penal substitution in the case of the atonement would be impermissible.

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<sup>26</sup> Tim Bayne and Greg Restall, “A Participatory Model of the Atonement,” in Yujin Nagasawa & Erik J. Wielenberg (eds.), *New Waves in Philosophy of Religion*. Palgrave Macmillan (2009).

<sup>27</sup> Bayne and Restall, p. 2.

I will now argue that, appearances to the contrary, it is reasonable to think that condition 4) is met. To see this, let's examine Bayne and Restall's "participatory model" of the atonement, which is designed to deal with sin as an ontological and relational problem.

According to the participatory model, our sins are atoned for by vicariously participating in Christ's death and resurrection, through which we become new creations who no longer suffer from sin and who are therefore restored to a right relationship with God. Bayne and Restall trace the participatory model to Paul, who often invokes participatory language and asserts that we are new creations in Christ. Further, Bayne and Restall point out that the sacraments of Baptism and the Eucharist (or Holy Communion) symbolize our new identity and are "thoroughly participatory." As they say, "[b]aptism symbolizes death to the old self and rebirth, participating in new life 'in Christ'; the Eucharist involves partaking in the blood and body of Christ."<sup>28</sup>

The participatory model of the atonement is attractive. It seems well-rooted in Scripture, and it successfully deals with sin as an ontological and relational problem. But does it effectively deal with sin as a deontological problem? Bayne and Restall argue that it does. On the participatory model, they claim, "[t]he moral debt we owe to God (if such there be) is not punished or forgiven, nor is satisfaction or reparation made for it. Instead, it is dealt with by changing the identity of the sinner: strictly speaking, the person who is in the wrong before God no longer exists."<sup>29</sup> The sinner no longer exists because he has died with Christ on the cross. If this solution is right, it obviates the need for the penal substitution model. The new creation does not deserve punishment, so there is no need for Christ to take it.

However, contrary to Bayne and Restall, I think that the participatory model cannot stand on its own because becoming a new creation does not by itself require Christ's death. To see this, examine Bayne and Restall's response to a crucial objection to their view – namely, that we cannot make sense of participating in the death and life of Christ, as we do not literally die with him nor are we literally reborn with him. In response, Bayne and Restall appeal to the notion of moral identity. They claim:

Moral identity is a matter of one's commitments, values and relationships. My identity qua moral agent is bound up with those projects and values with which I identify. I could survive the

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<sup>28</sup> Bayne and Restall, p. 15.

<sup>29</sup> Bayne and Restall, p. 16.

transition from one set of relations and commitments to another as one and the same person, but not as one and the same moral agent. The notion of moral identity gives us some handle on what it is to be in Christ. To be in Christ is for one's identity as a moral agent – as a moral self – to be centred on Christ and Christ's participation in the life of God.<sup>30</sup>

The idea, then, is that we are new creations in Christ in the sense that we have new moral identities with Christ's commitments, values, and relationships. However, why would Christ have to die in order for that to happen? Even though we cannot by our own strength take on Christ's commitments, values, and relationships, couldn't Christ give us the power to take them on, thus changing our moral identity, without his having to die? Of course, Christ's death and resurrection would be powerful symbols of our need for new moral identities, but they are not essential. It would be enough, for example, for Christ to model the right commitments, values, and relationships for us during his life on Earth and for us to commit to following him in that, relying on God's power to transform our moral identities to align with Christ's. Christ could even use the powerful images of death and resurrection by symbolically dying and being raised to new life through the rite of baptism in order to show us that we need new moral identities. We could then "participate" in his figurative death and resurrection by being baptized ourselves.

Because becoming new creations in Christ does not literally require Christ's death and resurrection, the participatory model cannot stand on its own. A complete model of the atonement must make Christ's death and resurrection essential.<sup>31</sup> I will now argue that the penal substitution and participatory models together overcome this problem and deal effectively with sin as a deontological, ontological, and relational problem. Further, this hybrid model shows that penal substitution in the case of the atonement enables us to be restored to a non-alienated status with God, even when sin is conceived of as an ontological and relational problem.

To start, the penal substitution model makes Christ's death and resurrection essential to the atonement. If our punishment includes physical death as well as spiritual death, then Christ's

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<sup>30</sup> Bayne and Restall, p. 19.

<sup>31</sup> Bayne and Restall agree with this point. They say: "[i]t is a powerful objection to any Christian theory of the atonement that it fails to explain how the atonement is related to the incarnation, crucifixion and resurrection of Christ, and it is a damning objection that it renders the saving acts of Christ unintelligible or unnecessary." My point, then, is that they fail to see that the participatory model on its own fails to make the crucifixion and resurrection necessary.

physical death on the cross and resurrection are obviously essential for Christ to take our punishment and bear it. But if our punishment is just spiritual death, couldn't Christ have suffered alienation from God and restoration in some other way? Given the expressive function of punishment, I think not. To express to physical beings like ourselves just how bad sin is, thereby validating the moral status of the victims of our wrongdoing, Christ would have to take our punishment in a way that is clearly represented physically. Importantly, this makes sense not just of Christ's physical death but also the manner of his death. As I said above, Christ's dying on a cross shows that he is under God's curse. Thus, unlike other manners of death, it clearly expresses alienation from God. Christ's resurrection then shows that he bore that alienation and was restored to a right relationship with God.

As we have seen, in addition to making Christ's death and resurrection essential to the atonement, the penal substitution model deals with the deontological problem of sin – i.e., our moral debt as a result of our wrongdoing and faulty attitudes. It is crucial that this is so, since, I have argued, the expressive function of punishment shows that God must deal with our moral debt rather than simply letting us off the hook or substituting a lesser punishment.

With our moral debt dealt with by penal substitution, the path is clear for us to have the ontological and relational aspects of sin dealt with by the participatory model of the atonement. Since Christ had to actually suffer death, it makes sense that we would have to participate vicariously in his actual death and resurrection in order to become new creations with the commitments, values, and relationships of Christ. In doing so, we acknowledge what we deserve for our sin, accept Christ's atoning work on our behalf, and acknowledge that we want a new moral identity rooted in Christ. Through this participation, God makes us new creations, such that sin is no longer a feature of our essential nature<sup>32</sup> – thus dealing with the ontological problem of sin – and such that we are restored to a right relationship with God – thus dealing with the relational problem of sin.

Crucially, this shows that condition 4) is met, even if sin is also an ontological and relational problem. By serving as our penal substitute, Christ pays our moral debt and enables us to participate vicariously in his death and resurrection, so becoming new creations restored to an

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<sup>32</sup> Of course, we still struggle with sin. Bayne and Restall explain this by saying that we can be caught between two moral identities – the old and new creations – and so our participation with Christ is not yet complete (p. 19-20).

intimate relationship with God – the status that we would have had were it not for our faulty attitudes and the wrongdoing that expresses them.

## VII. Why the Atonement as Penal Substitution Is Permissible

Why is penal substitution in the case of the atonement permissible? It is permissible, I have argued, because it meets the following conditions that are jointly sufficient for the permissibility of penal substitution:

- 1) The offender cannot bear the punishment that he deserves.
- 2) A substitute can bear that punishment and is willing to do so.
- 3) There is no viable alternative to the offender taking that punishment but penal substitution.
- 4) The substitute's taking the punishment enables the offender to be restored to the status that he would have had were it not for his wrongdoing.

Why is penal substitution permissible when these conditions are met? First, I believe that this view has intuitive force. It is reasonable to allow penal substitution when an offender cannot bear the punishment, there is no viable alternative to his having to take it except penal substitution, and there is a willing substitute who can bear that punishment and thus enable the offender to be restored by it. Second, these conditions would rarely be met, which fits well with our general disapproval of penal substitution. Other than the atonement and some cases of punitive fines, it is doubtful that there are real-life examples. Third, this view explains the evidence: our “double-mindedness” about penal substitution in legal cases and the fact that the mother should not punish the innocent daughter in the Mother/Son Example. To recap this evidence, in legal cases, we do not think that penal substitution is permissible for prison sentences or for fines that the offender can financially bear because condition 1) is not met. However, we are open to penal substitution for fines because we recognize that someone could be fined more than he can financially bear and that someone else may want to pay his fine to

restore him to a non-debtor status – i.e., we recognize that conditions 1) - 4) may be met. As for the Mother/Son Example, penal substitution is not permissible because condition 3) is not met.

Because conditions 1) - 4) are jointly sufficient for the permissibility of penal substitution, it is permissible for Christ to serve as our penal substitute. Conditions 1) and 2) are met because we cannot bear the punishment for our sin of spiritual death but Christ can and is willing to do so. Condition 3) is met because there is no viable alternative to our taking our punishment but penal substitution: if God chose not to punish us or substituted a less severe punishment that we could bear, he would fail to disavow sin to the appropriate extent, which would undermine His moral goodness and authority, at least to some extent. I do not think that it is a live option for a perfectly good, all-powerful God to do this. Finally, condition 4) is met because, by taking our punishment, Christ enables us to be restored to the status that we would have had were it not for our wrongdoing and faulty attitudes – namely, an intimate relationship with God.

Yet even if it is permissible for Christ to be our penal substitute, you might worry that Christ must die a separate spiritual death for each person, which he does not do, in order for the penal substitution model to work. Although I cannot fully deal with this objection now, here are two possible replies. First, we could say that Christ takes the punishment for everyone because his spiritual life is more valuable than all of our spiritual lives combined, making his spiritual death much worse than all of our spiritual deaths combined. Why might we think this? One reason could be that Christ was sinless. After all, it is reasonable to think that a moral saint's spiritual life is much more valuable than an average person's, which is much more valuable than an evil person's. Another reason could be that Christ is divine and we are not. Either way, we may reasonably suppose that Christ's spiritual life is more valuable than all of ours put together, and so he can be the penal substitute for everyone. Alternatively, we can overcome this objection by again appealing to a hybrid of the penal substitution model and the participatory model: since each person must participate vicariously in Christ's death, Christ can be the penal substitute for each person.

## VIII. Weakening Condition 3)

Before concluding, I will show that we can weaken condition 3) and still have a strong case for the permissibility of penal substitution in the case of the atonement. Doing so will advance my argument in two ways. First, it will respond to the worry that, contrary to my claim, it is a viable option for God to let us off the hook or substitute a less severe punishment that we can bear, even though that means undermining His moral goodness and authority. Second, and perhaps more importantly, it will make salient the incredible benefits to God and to us of having Christ serve as our penal substitute rather than our bearing that punishment or – if it is a viable option – God undermining His moral goodness and authority.

To motivate the weaker condition, notice that many actions that are generally wrong are permissible in extreme cases, where the alternatives are much worse. For example, lying is generally wrong, but it is permissible (and perhaps obligatory) to lie to a murderer at your door who asks you about the whereabouts of his intended victim. This idea about extreme cases plausibly explains why penal substitution is permissible in the extreme cases in which conditions 1) – 4) are met. Taking a punishment that you cannot bear is much worse than a substitute taking it when he can and is willing to bear it and when this would enable your status to be restored. Hence, when these are the only two options, it is reasonable to think that penal substitution is permissible even though it is generally impermissible.

Because it is reasonable to think that generally impermissible actions are permissible in extreme circumstances where the alternatives are much worse, I think that we can replace condition 3) with the following weaker condition and still have conditions that are jointly sufficient for the permissibility of penal substitution:

- 3\*) The alternatives to penal substitution are much worse than penal substitution and are objectively bad, and penal substitution brings about positive benefits that the alternatives do not.<sup>33</sup>

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<sup>33</sup> Besides the alternatives being much worse than penal substitution, I stipulate that they must be objectively bad and that penal substitution must bring about positive benefits that they do not in order to account for two intuitions that one might have: that penal substitution would only be permissible to avoid objectively bad alternatives and that it would only be permissible if it had positive benefits that cannot be brought about in any other way.

Unlike condition 3), condition 3\*) allows alternatives to penal substitution besides the offender taking the punishment that he deserves. With respect to the atonement, let's now assume that God could refrain from punishing us or could substitute a less severe punishment than we deserve. Then, given that the other conditions for the permissibility of penal substitution are met, we have three alternatives: a) we take the punishment for our sin, which we cannot bear; b) God chooses not to punish us or chooses to substitute a less severe punishment than we deserve, thereby undermining His moral goodness and authority; and c) Christ serves as our penal substitute, thus enabling us to be restored to an intimate relationship with God.

I will now show that condition 3\*) holds. First, a) and b) are clearly objectively bad, and they seem much worse than c). It seems much worse for God to undermine His moral goodness and the authority of His laws than for one member of the Trinity to suffer voluntarily a punishment that he has the power to bear. It also seems much worse for everyone to suffer spiritual death than for Christ to be our voluntary substitute, not just from our perspective but from God's perspective too, given God's love for us and Christ's resulting exaltation by God the Father (see Phil 2:8-11).

Second, c) brings about positive benefits that a) and b) do not. In particular, only c) allows both the expressive function and the transformational function of punishment to be accomplished. We have already seen that penal substitution allows the expressive function of punishment to be accomplished, which letting us off the hook would not allow. As for the transformational function of punishment, consider that one goal of punishment is for the offender to understand the seriousness of his wrong through the punishment and be morally transformed by it. We have already seen that Christ's serving as our penal substitute makes this possible. By serving as our substitute and then giving us the opportunity to participate vicariously in his death and resurrection, he enables us to become new creations, morally and spiritually transformed so that we can have an intimate relationship with God. This is not possible on the other options. If we take the punishment of alienation from God, which we cannot bear, there is no possibility of our being transformed morally and having an intimate relationship with God. If God lets us off the hook or substitutes a less severe punishment, He would be minimizing the seriousness of sin, thus inhibiting us from realizing its seriousness and being transformed by that realization. This would keep us from having an intimate relationship with Him by itself. It would also, by

undermining God's goodness and authority, prevent God from having with us the intimate and right relationship that he desires: a relationship with Him as a morally perfect and loving God who validates our moral status and whose commands have authority.

I have just shown that condition 3\*) holds for the atonement. We therefore have a solid case for the permissibility of Christ's serving as our penal substitute, even if it is a viable option for God to undermine His moral goodness and the authority of His laws by letting us off the hook for our sin.

## IX. Conclusion

It is commonly thought that the penal substitution model of the atonement faces a decisive objection: it is morally wrong to have an innocent person take the punishment of the guilty. Although penal substitution is generally morally wrong, I have shown that this objection to the penal substitution model does not succeed. The atonement is one of the rare instances in which penal substitution is permissible. Let me briefly recap the case for this. First, I argued that penal substitution is permissible when: 1) the offender cannot bear the punishment; 2) a substitute can and is willing; 3) there is no viable alternative to the offender taking the punishment but penal substitution; and 4) the substitute's taking the punishment enables the offender to be restored to the status that he would have had were it not for his wrongdoing. This view has intuitive appeal, fits with the evidence of our "double-mindedness" about penal substitution, and supports the atonement as a permissible instance of penal substitution. I argued that 3) holds in the case of the atonement because, due to the expressive function of punishment, God cannot let us off the hook or substitute a less severe punishment that we can bear without undermining His moral goodness and authority, at least to some extent. This is not a viable option for God.

Yet, even if I am wrong about this not being a viable option for God, I think that we can still make a strong case for the permissibility of penal substitution in the case of the atonement. We simply need to replace condition 3) with the weaker condition 3\*): the alternatives to penal substitution are much worse than penal substitution and are objectively bad, and penal substitution brings about positive benefits that the alternatives do not. 3\*) has intuitive appeal,

since many actions that are generally wrong are permissible when the alternatives are much worse, and it holds for the atonement. It is much worse for us to take a punishment that we cannot bear or for God to undermine His moral goodness and authority than for Christ to serve as our penal substitute. Further, Christ's serving as our penal substitute is the only way to be transformed morally and be restored to an intimate and right relationship with God. Penal substitution, then, is permissible in the case of the atonement.

Several issues remain, including untangling the distinction between Christ qua human and Christ qua Son of God, cashing out what it means to have an intimate relationship with God, and showing that the expressive function of punishment is not undermined when applied to the seemingly private punishment for sin of alienation from God. Nonetheless, I hope to have provided a plausible new avenue for claiming that penal substitution in the case of the atonement is morally permissible.

In closing, let me highlight what I take to be an advantage of the view of penal substitution that I have presented here. By appealing to the expressive function of punishment, as opposed to the retributive function, the heart of the penal substitution model is God's mercy, not His wrath. In choosing penal substitution, God mercifully takes amongst His available options the best option for us – the only one that allows us to be morally transformed and restored to a right relationship with Him.

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