

LITIGATION, SHOULD A CHRISTIAN SUE?

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Bringing lawsuits against one another for real or supposed injury has become commonplace in our society. California, which leads the United States in the number of lawsuits filed, counted 1,370,306 litigations excluding domestic relations cases in 2000. The United States produces 94% of the world's lawsuits, and 70% of the lawyers in the world reside in the United States of America.

Not only are lawsuits common, but they are also very costly. Lawsuits consume 2.2 percent of the United States' gross domestic product. Jury-awards of over \$1 million, unheard of prior to 1962, are numerous today.

Medical malpractice accounts for 25% of the lawsuits, while product liability produces 15%, slander/libel 14%, and toxic substance 13%, as the primary areas of litigation. These statistics demonstrate that litigation is rampant in many different areas of our society.

Although society uses the secular court system to litigate grievances, the Bible gives specific instructions for Christians to settle their differences apart from the judiciary. What are Christians to do when faced with an injury to their person, property, or character? How are Christians to respond when they are accused of causing an injury to another person? What is God's solution to the financial burden and animosity that lawsuits foster between parties?

So as not to be conformed to the world system for settling our differences in court, we must seek to understand the biblical teaching on this important subject. We will examine ancient forms of restitution in the Old Testament, admonition from the New Testament regarding litigation, Anabaptist perspectives on lawsuits, alternatives to the secular judicial system, and answers to difficult questions for Christians in the current litigious climate.

Ancient Forms of Restitution in the Old Testament

Moses gave the nation Israel God's specific instructions regarding the law of retaliation for both accidental and intentional injury. Although these are recorded several places in **Exodus, Leviticus, and Deuteronomy**, the most familiar rule is **Exodus 21:23-25**. "But if any lasting harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe." **Leviticus 24:19** states "If a man causes disfigurement of his neighbor, as he has done, so shall it be done to him."

These laws covered injury to person, property, and animals—including punishments for murder and accidental death. By modern day standards such laws seem archaic and barbaric, but since they were specific in the punishment for specific infractions of the law, they did prevent escalation of feuds and excessive retaliation of the injured party. Prior to these laws, humans could extract any restitution for injury. As recorded in **Genesis 4:23-24**, Lamech bragged to his wives that he killed a man for hurting him. Certainly, the punishment outweighed the crime, and God's system of justice prevented such outrageous reprisal under the law.

Admonition from the New Testament

Jesus addresses the concept of the law of retaliation in the Sermon on the Mount in **Matthew 5**. Jesus, in the fifth of 6 reinterpretations of Old Testament Scripture, states

"You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I tell you not to resist an evil person. But whoever slaps you on your right cheek, turn the other to him also. If anyone wants to sue you and take away your tunic, let him have your cloak also. And whoever compels you to go one mile, go with him two. Give to him who asks you, and from him who wants to borrow from you do not turn away" (**Matthew 5:38-42**).

Jesus' teaching illustrates that as God is a God of justice in the Old Testament, He is a God of mercy in the New Testament. As God grants us mercy when we commit injury (sin) against Him, so should we be merciful when others injure us.

While this passage is the basis for the Anabaptist teaching of nonresistance, a careful analysis reveals that it teaches nonresistance, and non-retaliation by litigation, as well. Jesus lists four separate injuries which could result in litigation or retaliation, the second of which specifically mentions a lawsuit.

The words “Slaps you on your right cheek” refer to a physical injury. Analogous situations today might include not only an injury from an altercation, but also automobile injuries, medical malpractice claims, product liability suits, or workers’ compensation cases. Jesus says don’t retaliate or contest the matter.

The second example describes one who might “sue you and take away your tunic.” That concerns a person who initiates a suit against you. Physicians and health care workers are especially vulnerable to malpractice suits. Jesus says, “Don’t contest; give more than is asked.”

The fact that a Roman soldier could compel a Jewish citizen to carry his pack one mile is the basis for the third insult. This speaks of unwanted pressure from a military or government agency. Perhaps paying taxes to the government for programs which we don’t personally support is an analogous modern-day example. The inference here is to not file a suit to protest government programs.

The final provocation concerns financial interests. Should a person sue for the collection of unpaid debts? Again, Jesus would not contest.

The New Testament admonition against initiating a lawsuit is an extension of the general teaching of nonresistance. Paul further discusses the issue in **1 Corinthians 6** — not only reiterating Jesus’ instruction, but also defining the reason Christians should not be involved in litigation in the civil courts. Paul expressly forbids litigation when he asks the rhetorical question: “Dare any of you, having a matter against another, go to law before the unrighteous, and not before the saints?” (**1 Corinthians 6:1**). He lists several reasons for this prohibition:

1. The civil courts are composed of unbelievers (unrighteous) people. Why would Christians want an unbeliever to settle their differences? (**verses 1, 6**).
2. God has given authority to the saints (church) to judge. The saints will judge the world and angels in the millennium; therefore, they have the authority and responsibility to judge matters in this life as well (**verse 2**).
3. It is a shame to the church. It is a poor example to the secular world if believers can’t settle their difference peaceably without resorting to the civil law (**verse 5**).
4. It is in contrast to Christ’s teaching. Why not allow yourself to be defrauded or to suffer wrong, rather than strike back, as Jesus taught in the Sermon on the Mount? (**verse 7**).

5. It is sin. Paul plainly states that it is wrong to pursue litigation (**verse 8**). Some may argue that this instruction applies only to suits and disagreements between Christians, for Paul specifically writes to the Corinthian church and speaks of suits between the brethren. While this may apply to the church, does it necessarily extend to suits against non-Christians? Certainly, it does. Jesus' instruction included insults from unbelievers such as Roman soldiers (**Matthew 5:41**). Therefore, we can conclude that the advice against litigation as an extension of the teaching of nonresistance compels us to avoid suits against unbelievers as well as against believers.

Anabaptist Thought on Litigation

The Brethren have long opposed litigation to seek revenge or restitution. Paragraph 5 of the 1923 Brethren Card states that the Church of the Brethren “Opposes on Scriptural grounds....going to law, especially against our Christian brethren (**1 Cor.6:1-9**).”

Peter Nead wrote “...the children of God are not under the law; I mean that they are not to make use of the law, so as to compel any of their fellow mortals into measures, or to bring any of them unto punishment. No, no—the children of God must not take vengeance on any man.”

As early as 1810, Annual Meeting prohibited collecting debts through the civil courts, and in 1869, a query was discussed “How is it considered by the brethren for a Brethren to take the benefit of the bankruptcy law?” The answer: “Considered, not according to the gospel. Matthew 5: 40.”

By 1920, the position of Annual Conference softened as it was supposed that there were instances in which litigation could not be avoided. Several guidelines were given:

1. The Christian should do more than required.
2. The principles of nonresistance should not be violated.
3. Consent of both parties was needed to pursue the court.
4. The counsel of the church should be sought before going to law. Although this may seem a more relaxed standard than the Biblical or previous Anabaptist instruction, it continues to be far more stringent and thoughtful than the current practice of addressing grievances through the legal system.

Alternatives to Litigation

Although the New Testament plainly prohibits believers from initiating a lawsuit, it does prescribe alternatives for reconciliation in matters of dispute. Christians have several

methods of recourse to achieve vindication, to reconcile conflict, and to restore relationships—methods that are unknown to the world and often unknown or ignored by believers.

In the case of disputes between believers, Paul states that the church should judge these matters (as previously noted in **1 Corinthians 6: 2-4**). Jesus has given a specific procedure for an individual to follow in **Matthew 18: 15-17**.

First, the matter should be discussed privately between the individuals involved. If no resolution is obtained, a conference with two or three other brethren should be engaged. If no resolution is concluded, the third step is to bring the dispute before the entire church council. Finally, if the offending individuals don't heed the decision of church council, they may be excommunicated from the fellowship.

For disputes involving a Christian with an unbeliever, Jesus advises us to find a solution before legal action is taken. **“Yes, and why, even of yourselves, do you not judge what is right? When you go with your adversary to the magistrate, make every effort along the way to settle with him, lest he drag you to the judge...” (Luke 12:57-58)**. We are told also in **Proverbs 25:9** that it is best to keep deliberations private: **“Debate your case with your neighbor himself, and do not disclose the secret to another.”** Unfortunately, all disputes do not reach amiable conclusions by these methods. Despite this, believers are charged with responsibility to resolve these issues within themselves in a Christ-like manner.

Our first responsibility is to forgive others for the injury and wrong they have promoted. We hurriedly and thoughtlessly pray many times, **“Forgive us our debts, as we forgive our debtors.”** We need to forgive others for their wrongdoing, even if the other party has not been repentant or apologetic. Once forgiveness is achieved, we will not have a feeling of revenge, and our anger at the injustice will be assuaged. Otherwise, we will suffer the consequences of our own unforgiven sin before God—as well as the long-term physical, emotional, and spiritual effects of seething anger.

Secondly, we must be willing to receive wrongs and suffer without objection. **“Why do you not rather let yourselves be defrauded?” (1 Corinthians 6: 7)**. This is especially true when the injury has been for the sake of the Gospel. **“Blessed are you when they revile and persecute you, and say all kinds of evil against you falsely for My sake. Rejoice and be exceedingly glad, for great is your reward in heaven, for so they persecuted the prophets who were before you.” (Matthew 5:11, 12)**. Not only do we have the prophets for an example of suffering in silence, but that of Jesus himself. We read in **1 Peter 2:23**, **“Who, when he was reviled, did not revile in return; when He suffered, He did not threaten, but committed Himself to Him who judges righteously.”** Paul explains that as Christ has given us the example, we should follow in His steps. It is better to suffer

injury than to violate God's justice and extract our own penalty. The Bible plainly states that **"Vengeance is mine, I will repay," says the Lord** (Romans 12:19b).

Answers to Difficult Questions for Christians Concerning Litigation

Some questions related to "going to law before unbelievers" are difficult to resolve from a biblical point of view.

- 1. Why are there so many lawsuits and why are the rewards so large.*
Most defendants are protected by insurance. Most lawyers work on a contingency fee schedule. If the suit is won, they collect a fee (usually one-third of the damage amount). If the suit is lost, no fee is charged. Plaintiffs have nothing to lose and may end up very rich. The underlying problem however is explained in James 4:1, "Where do wars and fights come from among you? Do they not come from your desires for pleasure that war in your members?" In other words—anger, envy, lust, hatred, and jealousy which are characteristics of our fleshly nature are the root cause.
- 2. Should a Christian sue another Christian?*
According to the Scripture it is sinful to engage in this action.
- 3. Should a Christian sue an unbeliever?*
Again, the answer is "No" for the reason discussed in the text.
- 4. Is a Christian allowed to defend himself if he is the subject of a lawsuit?*
There is no Scriptural mandate against a defense. However, a Christian should not counter sue if found innocent.
- 5. What should a Christian do if he loses personal assets above the amount insurance will pay, or if not protected by insurance?*
The biblical answer is that we are to continue to put our faith and trust in the God who can supply all our needs.

Despite the fact that litigation is commonplace in the world today, and condoned by the secular society, Christ calls the Christian to a higher standard than that of the world. Our allegiance is to Him and His teaching—which promotes mercy rather than justice and forgiveness rather than retribution.