Biblical Perspectives on Capital Punishment

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BIBLICAL PERSPECTIVES ON CAPITAL PUNISHMENT

There are few ethical questions that are subject to the same level of heated debate between different groups inside Christianity than the question of capital punishment. RC Sproul observes that "it has set Christian against Christian, church against church, conservative against conservative, and liberal against liberal."¹ Both proponents and opponents of the death penalty claim biblical authority on their view. Clearly, both groups can't be right. It is therefore important to investigate both claims carefully, and to uncover possible sources of error on both sides, before coming to a conclusion.

On the side of the proponents of capital punishment, I have looked at works by Jeremy Evans and Daniel Heimbach,² John Feinberg and Paul Feinberg,³ Charles Ryrie,⁴ and Sam Storms.⁵ On the side of opponents, I have looked at works by Darrin Belousek⁶ and Preston

⁴ Charles C. Ryrie, *Biblical Answers to Tough Questions* (Chicago, IL: Moody Press, 1991), 23–31.

¹ R.C. Sproul, *Following Christ* (Wheaton, IL: Tyndale House Publishers, 1996), Logos Bible Software, chapter 18.

² Jeremy A. Evans and Daniel Heimbach, *Taking Christian Moral Thought Seriously* (Nashville, TN: B&H Academic, 2011), Logos Bible Software, chapter 6.

³ John S. Feinberg and Paul D. Feinberg, *Ethics for a Brave New World* (Wheaton, IL: Crossway Books, 1993), 127–147.

⁵ Sam Storms, *Christian Ethics* (Oklahoma City, OK: Sam Storms, 2006), 19–27.

⁶ Darrin W. Snyder Belousek, "Capital Punishment, Covenant Justice and the Cross of Christ: The Death Penalty in the Life and Death of Jesus," *Mennonite Quarterly Review* 83 (2009): 375–403.

Sprinkle.⁷ The aim of this paper is neither to make a case for or against the death penalty, but to explore what Scripture actually teaches.

The Old Testament prescribes the death penalty in the Noahic Covenant and in the Law of Moses for the respective original audiences. The New Testament does not prescribe any secular laws at all; however, it acknowledges the government's authority to punish. A Christian should therefore submit to the secular government administering capital punishment; however, the government may not claim Biblical authority for the decision to do so.

Capital Punishment in the Old Testament

The Death Penalty in the Noahic Covenant

Humanity is first commanded to perform capital punishment as part of the Noahic Covenant, that God made with Noah and all his descendants after the flood. "As for the one shedding the blood of humankind, by humankind his blood shall be shed, for God made humankind in his own image." (Gen. 9:6).⁸ Since the earliest commentaries were written, most commentators have held that this law is to be taken literally, and that God requires murderers to be punished by death, however, insisting on due process. The forming of governments is implied in the command. Targum Onqelos has: "Who spills the blood of man, by witnesses, from the word of the judges, shall his blood be spilled".⁹ God made the covenant with all descendants of Noah and his sons, as he said in verse 9, "I am establishing my covenant with you and with your

⁷ Preston Sprinkle, *Fight: A Christian Case for Non-Violence* (Colorado Springs, CO: David C Cook, 2013), Logos Bible Software, chapter 12.

⁸ Unless otherwise noted, all Scripture references are taken from the Lexham English Bible.

⁹ John F. Hobbins, *Genesis 1–11: A New Old Translation for Readers, Scholars, and Translators:* Notes (Wilmore, KY: GlossaHouse, 2017), 177.

seed after you", and in verse 12, "This is the sign of the covenant that I am making between me and you, and between every living creature that is with you for future generations." Therefore, the Noahic Covenant covered not only the Semitic line of Noah's descendants, but the Gentiles too. The reason for capital punishment is given as well; because humankind is created in God's image. The murdering of a human being is therefore a sacrilege against God himself.

The suggestion by opponents of the death penalty to interpret verse 6 as a descriptive statement rather than a prescriptive command, by translating "among humankind" rather than "by humankind" was investigated and rejected by Brown, Fausset and Jamieson. The proper rendering of the Hebrew preposition is "by".¹⁰ Others have suggested that the Hebrew verb forms are indeterminate and can either be imperative (prescriptive) or indicative (descriptive). The Feinbergs argue convincingly for imperative verb forms based on God's "demand" in verse 5.¹¹ In conclusion, the attempts to interpret this passage in any other way are not compatible with the historical-grammatical method and distort the original meaning of the text.

The Death Penalty in the Law of Moses

The Jewish Encyclopedia lists fifteen offenses that carry the death penalty under

Mosaic Law.12 Capital punishment for murder is prescribed in three places, "whoever strikes

¹⁰ David Brown, A. R. Fausset, and Robert Jamieson, A Commentary, Critical, Experimental, and Practical, on the Old and New Testaments: Genesis–Deuteronomy, Vol. I (London; Glasgow: William Collins, Sons, & Company, Limited, 1871.), 106.

¹¹ Feinberg and Feinberg, *Ethics*, 143–144.

¹² Isidore Singer, Ed., *The Jewish Encyclopedia: A Descriptive Record of the History, Religion, Literature, and Customs of the Jewish People from the Earliest Times to the Present Day, 12 Volumes* (New York; London: Funk & Wagnalls, 1901–1906), 554.

someone and he dies will surely be put to death" (Exod. 21:12), "and when a man kills any human being, he certainly shall be put to death" (Lev. 24:17), and a more detailed description in Num. 35:16–18.

The five offenses in Exod. 21:12–17 that carry capital punishment are listed in order of gravity, with intentional murder placed on top.¹³ Like the Ten Commandments, these laws are given in the apodictic form, further underlining their seriousness.¹⁴ In contrast to casuistic laws, or case-laws, apodictic laws "represent Israel's distinctive covenant law, imposed on the nation by Yahweh".¹⁵ Murder is not only a sin against man, but because man is made in the image of God, it is a sin against God as well. There is clear scholarly agreement that the death penalty is part of the Mosaic Law. The principle is called *lex talonis*, which prescribes the same punishment reciprocal to the offense (e.g. "life for life, eye for eye, tooth for tooth, hand for hand, foot for foot", Deut. 19:21).

On the other hand, strong safeguards to prevent an abuse of the death penalty or miscarriage of justice were prescribed. The Feinbergs list five procedural items required by the Law of Moses, that are not part of the American justice system, nor part of the justice system of other countries that administer the death penalty. Firstly, for a conviction, absolute certainty must have been established (Deut. 17:4, "the trustworthiness of the deed has been established"), secondly, a minimum of two eyewitnesses must have testified against the offender (Deut. 17:6,

322.

¹³ Allen Ross and John N. Oswalt, *Cornerstone Biblical Commentary: Genesis, Exodus*, Vol. 1 (Carol Stream, IL: Tyndale House Publishers, 2008), 457.

¹⁴ John I. Durham, *Exodus*, Vol. 3, Word Biblical Commentary (Dallas: Word, Incorporated, 1987),

¹⁵ F. F. Bruce, "Criticism", ed. Geoffrey W. Bromiley, *The International Standard Bible Encyclopedia*, *Revised* (Wm. B. Eerdmans, 1979–1988), 823.

"On the evidence of two or three witnesses the person shall be put to death. The person shall not be put to death by the mouth of one witness."), and the eyewitnesses have to initiate the execution (Deut. 17:7, "The hand of the witnesses shall be first against the person to kill the person."), thirdly, the verdict has to be decided by legal experts and not by a lay jury (Deut. 17:8–9, "You shall go to the priests and the Levites and to the judge who will be in office in those days, and you shall enquire, and they shall announce to you the verdict."), fourthly, witnesses who commit perjury in capital cases receive capital punishment themselves (Deut. 19:18–19, "if it turns out that the witness is a false witness and he testified falsely against his brother, then you shall do to him as he meant to do to his brother."), and fifthly, the death sentence was mandatory (Num. 35:31, "Also, you will not take a ransom payment for the life of a killer who is guilty of death; indeed, he must surely be put to death.").¹⁶ I propose a sixth item to be added to the list, the designation of cities of refuge for those who have unintentionally killed someone (Deut. 19:1–13).

A consistent application of capital punishment, according to Mosaic Law, would require equally executing not only murderers, but also offenders who have committed other crimes such as adultery and blasphemy, and the installation of six safeguards against miscarriage of justice.

A Plea for Penitent Sinners in Ezekiel

Although directly related to the topic, the passages in Ezekiel find little recognition in scholarly discussions on capital punishment. Ezekiel 18 is written in legal language and uses the

¹⁶ Feinberg and Feinberg, *Ethics*, 138–139.

same or very similar phrases as the legal texts in the Pentateuch, for example "if a man", "he will die" and "he will live". In contrast to the Mosaic Law, which does not allow mercy towards a repentant offender, the rules given in Ezekiel do: "But if the wicked returns from all of his sins that he has done and he keeps all of my statutes and he does justice and righteousness, he shall surely live; he shall not die!" (Ezek. 18:21). It needs to be stated that mercy applies only to the repentant sinner. Capital punishment is not completely abolished (v. 24).

Darrin Belousek suggests that Ezekiel amended Mosaic Law in order to allow for mercy. He argues that the change was not only made for the duration of the Babylonian exile, based on further restrictions on capital punishments in later Jewish writings, such as the Mishnah.¹⁷ However, these later writings were a fallible interpretation of the law and the prophets, whereas the change of the law in Ezekiel was made by the Lord's authority, who declares in verse 4, "Look! All lives are mine." Therefore, further evidence for a permanent amendment is needed.

First, the reason for capital punishment in the Mosaic Law is given in Deut. 17:12, "so you shall purge the evil from Israel". Executing a sinner who has already repented does not serve the purpose for which the command was given.

Second, the reason for mercy is given in the rhetorical question in Ezek. 18:23, and in the answer in Ezek. 33:11: "Surely I have no delight in the death of the wicked, except in the wicked returning from his way, and he lives." This reason is not related to the fact that Israel was in captivity at the time but reveals a general truth about God. There is also no reason to take these words figuratively and apply them to anything but the physical life of the offender.

¹⁷ Darrin, Capital Punishment, 382–383; 397–398.

Third, there is a precedence in 2 Sam. 12. In verse 5, King David, the highest judicial authority at the time, in full accordance with the Law of Moses, pronounces the verdict, unknowingly on himself: "As Yahweh lives, the man who has done this deserves to die!" By the Lord's authority, however, the prophet Nathan declares mercy in verse 13: "Yahweh has also forgiven your sin; you shall not die." This episode took place a long time before the captivity. The concept of mercy is therefore not restricted to the years in exile.

In conclusion, the Lord did amend the Law of Moses through Ezekiel. Whereas before this revelation, mercy had to be announced by the Lord through a prophet, it is now a command to be obeyed by Israel, which they also interpreted as such in later writings.

Capital Punishment in the New Testament

Jesus' Fulfilment of the Old Testament Law

Since we are no longer under the law, the question arises to which extent we still must follow these commands, and most important, how to do it consistently.

The Feinbergs build their case in favor of capital punishment on the premise that if the Mosaic Law prescribes capital punishment, then it can never be morally wrong.¹⁸ However, their argument has three flaws. First, capital punishment can be wrong if the safeguards against misconduct of justice are removed. Second, the premise can only be true, if it still holds if you insert any of the fifteen capital offenses into it individually, and not only intentional murder, for example, if the Mosaic Law prescribes capital punishment for homosexuals, then it can never be

¹⁸ Feinberg and Feinberg, *Ethics*, 148.

morally wrong to execute homosexuals. Third, capital punishment is morally wrong, if someone else has already taken the punishment.

Belousek argues that God, through the cross, has both redeemed humanity from sin, and done justice according to the law, even if retribution is not justified. This is possible, because we are not justified by the law, but "as a gift by his grace, through the redemption which is in Christ Jesus" (Rom. 3:24). We are free from sin because God has "destroyed the certificate of indebtedness in ordinances against us, which was hostile to us, and removed it out of the way by nailing it to the cross" (Col. 2:14), which includes the requirement for capital punishment. Therefore, the prescription of capital punishment from the Law of Moses no longer applies in the church age.¹⁹

Ryrie realizes the manifold problems making a case for capital punishment from the Mosaic Law and instead reverts to the Noahic Covenant, arguing that Christ's law of grace only replaced the Law of Moses.²⁰ However, when the New Testament talks about the law, for example when quoting or alluding to the Old Testament, that includes passages from all kinds of books outside of Exodus to Deuteronomy. Therefore, if we are not under the law, then that includes Genesis 9. Storms argues that the Noahic Covenant is binding for Jews and Gentiles alike, since Noah is the head of the human race.²¹ However, if Christ's death on the cross only covers the Mosaic Law, which was given exclusively to the Jews, and not to the Gentiles, then the Gentiles would not be in need of Christ. If the laws given in the Noahic Covenant still

¹⁹ Belousek, Capital Punishment, 401–402.

²⁰ Ryrie, *Biblical Answers*, 30.

²¹ Storms, *Ethics*, 20.

applied today, then we would still be under these laws. However, Paul writes, "For sin will not be master over you, because you are not under law, but under grace" (Rom. 6:14). There is no third alternative, such as to be both under the laws given in the Noahic Covenant and under grace at the same time.

Insisting that the Noahic Covenant is still valid today leads to further problems, as it includes a few other laws such as a food law to not eat any blood (Gen. 9:4). The Feinbergs claim that out of the laws given in the covenant, only the law about capital punishment carries over to the New Testament, because it is the only law for which a theological reason is given, and it is the only law that is repeated in the New Testament.²² Apparently they refer to the passage on governmental authority in Romans 13, which I will discuss later. As we will see, that passage does not prescribe the death penalty. On the other hand, the Feinbergs forgot about the command to abstain from blood in Acts 15:20. Therefore, their second justification for carrying this law over to the New Testament is quite reversed, and works actually in favor of not carrying it over, and their entire case now rests on the single fact that a theological justification is given for the death penalty in Gen. 9:6, which is, without other scriptural support, insufficient.

In summary, the attempts to carry the one law that prescribes the death penalty in cases of intentional murder over to the New Testament, but not other laws prescribing the death penalty, protecting the accused, are weak and inconsistent, and should therefore be dismissed.

²² Feinberg and Feinberg, *Ethics*, 140.

The Death Penalty and the Law of Christ

The next question of interest is, now that it is clear that the laws on the death penalty do not carry over into the church age, whether the Law of Christ actively abolishes capital punishment. Belousek believes it does and provides two passages as evidence.

The first passage is John 8:2–11, the woman caught in adultery.²³ Although Belousek recognizes and answers this objection, such a heavy case must not rest on a passage with textual problems. It needs to be resolved satisfactorily elsewhere in Scripture. I will therefore skip this passage entirely.

The second passage is Matth. 5:38ff in the Sermon on the Mount. Belousek claims that Jesus is abolishing the *lex talonis* entirely.²⁴ However, Jesus does not abolish "life for life" here. The passage makes neither a positive nor a negative case for capital punishment but is silent on the issue.

The Feinbergs, for their case, also turn to the Sermon on the Mount, to the passage addressing murder (Matth. 5:21–26), claiming that the absence of the details on the required punishment implies that this means capital punishment.²⁵ However, everyone who is merely angry at his brother is also subject to judgment, and therefore Jesus cannot possibly have implied that this judgment would come in the form of capital punishment.

²³ Belousek, *Capital Punishment*, 376.

²⁴ Ibid., 398.

²⁵ Feinberg and Feinberg, *Ethics*, 140.

In contrast, Evans and Heimbach correctly point out that the Sermon on the Mount is about personal ethics, and not about social ethics. A Christian ought to show mercy in their personal life, but a secular state is not bound to be merciful.²⁶ The same is true for all other New Testament passages that command us to love and forgive others.

In conclusion, the Law of Christ is silent on the topic of capital punishment, because it involves the realm of personal ethics, whereas the topic of capital punishment lies in the realm of social ethics.

The Death Penalty and Romans 13

All proponents of the death penalty I looked at use Rom. 13:1–7 to demonstrate that the New Testament mandates capital punishment. Therefore, it is necessary to examine this passage in great detail. All four of them identify "the sword" as figurative, representing the government's authority to pass the death sentence. Ryrie argues that "the sword" cannot represent the police force because the word used for sword means a large knife with a bent blade, like the one carried by the chiefs in the *Iliad*, used for killing their enemies.²⁷ In this, Ryrie is mistaken, and the normal interpretation of "the sword" is most probably the authority of the police, and their duty to apprehend and arrest offenders, for a number of reasons.

First, the city of Rome at that time had a police force of several thousands of men, the *Vigiles*, armed with short swords, whose duty was, among others, to keep the peace in the city.²⁸

²⁶ Evans and Heimbach, Christian Moral Thought, n.p.

²⁷ Ryrie, *Biblical Answers*, 28.

²⁸ A.C. Germann, Frank D. Day and Robert R.J. Gallati, *Introduction to Law Enforcement* (Springfield, IL: Charles C. Thomas, 1962), 38.

Therefore, the regular experience of the original audience in Rome of seeing swords in the hand of government officials, was the police force, the *Vigiles*, patrolling the streets of Rome. The Roman civil guards, enforcing taxation, also carried swords.²⁹ As Paul continues to talk about paying taxes (v. 6), it is also possible that he referred with "the sword" to the civil guards.

Second, the Roman government, at the time, made a public spectacle of executing offenders through crucifixion or by throwing them to the wild beasts in the amphitheaters. Other execution methods like decapitation and burning did exist, but they were reserved for the lesser crimes.³⁰ Therefore, the sword is not the main instrument that the original audience would have associated with the death penalty. Grant Osborne notes that "the sword" in this context can also not refer to the Roman *ius gladii*, the governor's right to execution, as it applied only to Roman citizens serving in the military.³¹

Third, the word for sword, Greek *machaira*, denotes a sword in the generic sense. For example, Jesus commanded the disciples to sell their cloak and buy a sword (Matth. 22:36). The two-edged sword of judgment is called *romphaía* in Greek. It is used, for example, in Rev. 19:15 as the tool with which Christ will judge the nations.³² Since *machaira* is the generic word, it can of course also mean a sword of judgment, such as it does in Heb. 4:12 or Acts 12:2, however,

²⁹ Joseph A. Fitzmyer S.J., *Romans: A New Translation with Introduction and Commentary*, Vol. 33, Anchor Yale Bible (New Haven; London: Yale University Press, 2008), 668.

³⁰ Gerald G. O'Collins, "Crucifixion", ed. David Noel Freedman, *The Anchor Yale Bible Dictionary* (New York: Doubleday, 1992), 1207.

³¹ Grant R. Osborne, *Romans*, The IVP New Testament Commentary Series (Downers Grove, IL: InterVarsity Press, 2004), 345.

³² T. Nicol, "Armor, Arms", ed. James Orr et al., *The International Standard Bible Encyclopaedia* (Chicago: The Howard-Severance Company, 1915), 252.

since Paul chose not to use the word *romphaía*, we must assume that he did so for a purpose, and specifically meant a sword in a generic sense, and not a sword of judgment.

Ryrie is mistaken to draw a conclusion from the use of the same word *machaira* in the *Iliad*. The meaning of the word can easily have changed within those 1200 years between the authorship of the *Iliad* and the authorship of the New Testament. And if appealing to the *Iliad* would be allowed in one passage, then it would be allowed in other passages as well, such as in Matth. 22:36, allowing for very obscure interpretations of that verse.

Whereas Rom. 13 is therefore not explicitly about capital punishment, it is still implied in the text. Ryrie notes, that even if the sword might refer to governmental functions in general, this clearly includes the death penalty.³³ His observation is correct. The passage is clear that there is no exception when it comes to the authorities that God has given to the government, which must therefore include the application of the death penalty, which is one of the rights that the government of the original audience had. Most strikingly, Roman legislation on capital punishment was not even based on any of the Old Testament principles discussed before, and Paul still did not exclude it from the God-given authorities of the government.

It follows that today, as Christians we are subject to the secular law, and if that includes legislation on capital punishment, we are subject to that too. If the government chooses to execute criminal offenders, we are to respect that decision.

³³ Ryrie, *Biblical Answers*, 29.

Conclusion

We have seen that, on the one side, proponents of the death penalty are mistaken to apply Old Testament regulations on capital punishment to the church age. On the other hand, the New Testament does not issue the passionate mandate against capital punishment that some opponents claim it would.

The Old Testament gives good advice to governments that choose to allow the death sentence. The issues brought before the US Supreme Court correspond to many of the safeguards in the Law of Moses,³⁴ and in recent years, several prominent cases of misconduct of justice have caused not only many conservative Christians but also conservative politicians to give up support for capital punishment.³⁵

The New Testament is not concerned about secular governmental procedures at all, but its call for love and forgiveness is directed at the individual believers. We are not supposed to hate or despise prisoners on death row, for we have all been under a death sentence ourselves. ("For the wages of sin is death.", Rom. 6:23 NASB). Preston Sprinkle concludes his discourse on capital punishment with the words, and I could not agree more, "It would be odd—some would say hypocritical—for Christians to thank God for taking their death penalty and then spin around to celebrate the death of someone they think is worse than them."³⁶

³⁴ Daniel G. Reid, Robert Dean Linder, Bruce L. Shelley, et al., *Dictionary of Christianity in America*, s.v. "Capital Punishment" (Downers Grove, IL: InterVarsity Press, 1990).

³⁵ Kevin Davis, "Political Shift: Faith and Fiscal Responsibility Cause Many Conservatives to Change their View on the Death Penalty," *ABA Journal* Vol. 101, No. 6 (2015). 52.

³⁶ Sprinkle, *Non-Violence*, n.p.

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