

# Hot Topics

The Death Penalty

*Exodus 20:13; Genesis 9:6; Matthew 5:38, 39; Romans 12:19-21*

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## The Death Penalty

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**You shall not murder (Exodus 20:13).**

**Whoever sheds man's blood, By man his blood shall be shed; For in the image of God He made man (Genesis 9:6).**

**You have heard that it was said, '*An eye for an eye and a tooth for a tooth.*'<sup>39</sup> But I tell you not to resist an evil person. But whoever slaps you on your right cheek, turn the other to him also (Matthew 5:38, 39).**

**Beloved, do not avenge yourselves, but *rather* give place to wrath; for it is written, "*Vengeance is Mine, I will repay,*" says the Lord.<sup>20</sup> Therefore "*If your enemy is hungry, feed him; If he is thirsty, give him a drink; For in so doing you will heap coals of fire on his head.*"<sup>21</sup> Do not be overcome by evil, but overcome evil with good (Romans 12:19-21).**

## Introduction

A week ago Tuesday (1/26/24) a sentence was announced against a woman, Bryn Spejcher, who had fatally stabbed her boyfriend, Chad O'Melia, 108 times. She received 100 hours of community service and two years of probation. No prison time.

Approximately 150 years ago Charles Hodge wrote:

**Experience teaches that where human life is undervalued, it is insecure; that where the murderer escapes with impunity or is inadequately punished, homicides are fearfully multiplied. The practical question, therefore, is, who is to die? the innocent man or the murderer?<sup>1</sup>**

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<sup>1</sup> Charles Hodge, *Systematic Theology, Vol III*, (Eerdmans, reprinted 1989), p. 364.

This morning we attack the issue of the death penalty. Is it biblical to put people to death-to execute people for certain crimes? Many years ago I had a standoff with Tony Campolo at the National Youth Workers Convention on this issue. He put his finger right in my chest (kind of an Italian thing) and said, "The problem with people like you is that you think abortion is wrong, but capital punishment is allowable!"

I was paralyzed at the comparison. Feeling as if what I was about to say was so blindingly obvious, I recall trying to be careful with my tone. "Yes, I think convicted murderers should be put to death and innocent babies protected." I recently saw a poster in a neighbor's front yard which posed the same argument as Campolo. It read (something to the effect) *How can you be for the death penalty and still call yourself pro-life?* All to say that this twisted logic is still in the atmosphere.

The wife of a pastor/friend of mine, not as aggressive, when learning that I believed that capital punishment was biblical (I don't bring the subject up all that often, so I'm not sure why I have found myself routinely in this discussion) was confused. She thought that the death penalty was purely an Old Covenant/Old Testament practice but that the grace in the New Covenant repealed such a barbaric, graceless practice. The New Covenant is a covenant of grace!

Now I was the one confused. Genuinely curious, I asked her what she thought we should do with murderers. She said, "Life in prison." Again, my follow-up question seemed so obvious I hesitated to ask. "How is life in prison gracious?"

Another popular poster reads, *Why do we kill people who kill people to show that killing people is wrong?* That poster is very helpful when it comes to targeting the problem. It demonstrates (whether intentional or not I can't say) a categorical fallacy. According to that poster, killing is killing without any qualification. Any killing at all is murder, according to this view.

Of course, if we approach the matter that way, there can be no response whatsoever to crime. If all killing is murder, it logically follows that prison is kidnapping and that imposing a fine is theft. If we refuse to make any distinction between a lawfully ordained responsibility of a civil magistrate, or legal/court system when it comes to punishment of a crime, and the criminal acts of a lawless person, then the law of the streets take over and we're living in a savage jungle.

It is difficult to find a topic (there clearly are others) where the futility of the unregenerate mind becomes more **“darkened in their understanding” (Ephesians 4:18)**. Otherwise intelligent people seem to, very often, build their anti-death penalty arguments on the logic of a two-legged stool.

But not all arguments are as ill-conceived as the ones mentioned above. What I would like to do is briefly provide, in an effort to be fair, the predominant views (or thought processes) that dominate current thinking on the subject (*Utilitarianism* and *Retribution*), then the view I believe to be biblical. I will then seek to address some of the more common objections/confusions. I will finish, lest this sermon be reduced to a mere message on political ethics, with how a proper take on the death penalty affects our view of the cross itself.

But before going there, I wish to address something else. As I am doing my spadework for this message, it severely dawned on me that I am arguing in favor of taking someone’s life. It’s the life of a murderer (not addressing other capital crimes at this point) to be sure, but a life nonetheless. And such a prospect should be heartbreaking. This may be a suitable category for us to seek to be imitators of God

**Say to them: ‘As I live,’ says the Lord God, ‘I have no pleasure in the death of the wicked, but that the wicked turn from his way and live. Turn, turn from your evil ways! For why should you die, O house of Israel (Ezekiel 33:11)?**

When Jesus contemplated the due consequences of destruction that would soon fall upon Jerusalem, it is one of only two times that we read of Him weeping (Luke 19:41).

## **Utilitarian Approach**

The utilitarian approach may be the most dominant in our current society. We approach the government’s response to crime in such a way that has utility for us, or good consequences. On the surface, this approach plays well to our ears. Society is not, so much, punishing offenses as restoring offenders. It is not a prison or a penal colony. It is a correctional facility.

Of course, we would like to see murderers (any criminal) turn from their ways. But is it the job of the state to accomplish this moral, or even spiritual, redemption in its citizens? You might notice in older movies, troubled outlaws would go to the church to find a way to turn from their evil ways. Now they go to the state appointed psychiatrist or psychologist. As it turns out, the state is inept when it comes to restoring criminals and equally inept when it comes to determining whether or not they have been restored.

Pedophile and murderer, Robert Jackson Thompson was released halfway through his sentence because the prison psychiatrist said he was cured. He proceeded to kill a 12-year-old paperboy and eventually died in prison.

The advocates of the very popular utilitarian approach are quick to point out that the death penalty is ineffective in deterring others from committing capital crimes. The appeal to the dubious nature of these sociological studies as if they were hard facts, which they are not. There may be people so deranged that they have no fear of punishment, even death.

It may be true that a certain society is replete with suicidal sociopaths and psychopaths. If such is the case, there is no system of law that will remedy that. But one can engage in simple self-reflection in terms of the effectiveness of penology (punishment). If you knew, for a fact, that driving over the speed limit would incur the death penalty (which I am not suggesting) would that deter you from speeding?

A bigger problem with this utilitarian approach (which may not be immediately obvious) is how it opens the door, or becomes one of many doors, of a government imposed, social hygiene. When we relegate this type of social engineering to the government, it can justify great evils in the name of social stability. One thinks of government-imposed restrictions on how many children a family is allowed (e.g., China), or who gets to educate children, with what curriculum?

As Dr. Bahnsen points out, the opening of the door to this utilitarian approach “can possibly justify punishing the innocent.” This is something which happened on a massive scale in the 20<sup>th</sup> century through godless, socialistic and communistic dictatorships. And this threat is seeking to get legs again. One need look no further than Lawrence Krauss’ bone-chilling interview with Noam Chomsky, where the crowd bursts out in great cheer

at the prospect of “intellectuals” exposing religious lies and allowing science and governments free reign over the human soul (if such a thing even exists, according to them)<sup>2</sup>.

All to say, a biblical penology may have a restorative or deterring effect upon crime. But such things would be a collateral benefit of that which is much deeper, as we shall see.

## **Retributive Approach**

Simply put, retribution means you’ve done the crime, now you have to do the time or pay the penalty for your crime. Criticisms of this view include: 1. That it does not address the root causes of crime. 2. It can be overly harsh. 3. It can lead to a cycle of violence. 4. It can be discriminatory. 5. It does not prioritize rehabilitation.

Retribution is closer to the Christian approach in that it lays stress on the guilt and dessert that comes to a man who performs the crime. As you may have noticed, some of the criticisms against it are its unwillingness to engage in social engineering. But, as we shall see in a moment, other criticisms (harshness, discrimination) will be answered with a more biblical approach.

The difficulty with the retributive approach is its lack of ability to be specific. What is the proper retribution for rape, kidnapping, theft, etc.? Retributivist, Robert Blecker, a New York Law School professor, spent thousands of hours interviewing convicted killers and concluded “that some people deserve to die.” Without the specificity of an absolute authority (which many evil men have sought to supply in themselves throughout the course of history), retribution becomes ambiguous. What crime deserves what punishment? The non-Christian retributivist is the utilitarian in disguise.

## **Christian Approach**

The Christian view of all punishment (though currently speaking of the death penalty) is dictated by the law of God. It may have a deterring effect. It may have a reforming effect. It may have protective effect. In fact,

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<sup>2</sup> <https://www.youtube.com/watch?v=QEKy1yE8nI>

since the law of God is righteous, holy and good (Romans 7:12), in an ultimate sense it ascends far higher than any utilitarian can offer. But the aim is not secular pragmatic utility. Nor is the aim mere retribution. For mere retribution means we need to identify the offended party. And who is the offended party?

In courtrooms we'll often here, "the state of California versus so-in-so" as if the state is the ultimate offended party. Even the victim, though certainly offended, is not the primary offended party. No, according to the Christian view, God is the offended party. When David had committed a great sin/crime against Bathsheba and Uriah, he recognized the deepest sense of his violation with the words, "**Against you, you only have sinned**" (Psalm 51:4).

Maybe it is devious and calculated or maybe it is merely honest ignorance, when in dramas (and there are many) against the death penalty, they portray the primary motivation for the death penalty to be the psychological and emotional peace of the loved ones of the victim. They'll feel better if the murderer is executed. That is a red herring (a distraction from the truth). That would be a utilitarian approach.

To be sure, retribution is a component of the Biblical view. A criminal should pay for his crime. And the payment should fit the crime. There is to be a *lex talionis* (punishment inflicted should correspond in degree and kind to the offense). This is biblical retribution and is found in God's law, specifically in Leviticus 24:19-22, where we're taught "**eye for eye, tooth for tooth.**"

You'll often hear this passage used as if it is presenting that which is harsh. I daresay, it is only in societies where punishments for crime are soft and tend to favor the victimizer over the victim that this position is held. In societies where they cut your hand off for stealing bread or kill you for speaking your mind, they would long for *lex talionis*. One should not be punished more or less than deserved.

Some will argue that Jesus repealed the *lex talionis* in the Sermon on the Mount, when He preached,

**You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' <sup>39</sup> But I say to you, Do not resist the one who is evil. But if anyone slaps you on the right cheek, turn to him the other also (Matthew 5:38, 39).**

But Jesus is speaking of having a personal, vindictive retaliatory disposition. In this He was not teaching something new. The Old Testament teaches similarly,

**Do not say, "I will recompense evil"; Wait for the Lord, and He will save you (Proverbs 20:22).**

**Do not say, "I will do to him just as he has done to me; I will render to the man according to his work" (Proverbs 24:29).**

Jesus was not teaching that there should be no punishment for assault and battery. Or theft if someone takes your cloak. Or slave labor if someone forces you to take a trip you don't want to take.

There is a proper, biblical retribution. And we shall see that this retribution, or vengeance belongs to God but is worked through human agencies that He has ordained.

But the end game for penology is that we might come to recognize, using the words of Abraham,

**Shall not the Judge of all the earth do what is just (Genesis 18:25)?**

Also, in Deuteronomy,

**The Rock, his work is perfect, for all his ways are justice. A God of faithfulness and without iniquity, just and upright is he (Deuteronomy 32:4).**

**Every way of a man is right in his own eyes, but the Lord weighs the heart. <sup>3</sup> To do righteousness and justice is more acceptable to the Lord than sacrifice (Proverbs 21:2, 3).**

Proverbs communicate the horrifying reality,

**Evil men do not understand justice, but those who seek the Lord understand it completely (Proverbs 28:5).**

In moment we're going to see how critical an understanding of justice is, not only to the welfare of society, but the welfare of our eternal souls. But first, I'd like to briefly answer a couple of questions.

## **Does The New Covenant Oppose the Death Penalty?**

It is beyond dispute that the Old Covenant countenanced the death penalty. Because man is made in the image of God (and is not merely a higher form of animal) the murdering of man is an offense to God. Therefore "by man shall his blood be shed" (Genesis 9:6). This clearly involves some type of governmental agency.

In the New Covenant, God still exacts a just and holy "vengeance" (Romans 12:19). God's vengeance *ekdikesis* should not be understood as some sort of malicious revenge but more of an avenging or administration of justice. What we learn in the New Testament is that the vehicle of God's vengeance are the civil that He, providentially appoints (Romans 13:1-5).

Recognizing that the sword was an instrument of capital justice, Paul writes,

**For he is God's minister to you for good. But if you do evil, be afraid; for he does not bear the sword in vain; for he is God's minister, an avenger to *execute* wrath on him who practices evil (Romans 13:4).**

All to say, that the Scriptures are not unclear on the appropriate exercise of the death penalty.

## **What About the Innocent?**

Perhaps the strongest argument against the death penalty is when it is misapplied. Truly no system, regardless of how perfect, can overcome human sin and error. And one way or another (either executing an innocent or releasing a guilty) there are consequences. But a biblical due process, which is seldom applied, provides the greatest assurance against this misapplication.

In the nineteenth chapter of Deuteronomy (as well as many other places), not only are we instructed that a conviction needs “**two or three witnesses**” (Deuteronomy 19:15), but we also read,

**...if the witness is a false witness and has accused his brother falsely, <sup>19</sup> then you shall do to him as he had meant to do to his brother (Deuteronomy 19:18, 19).**

By this standard alone, many currently on death row would not be. God, it would appear, is quite concerned with the protection of the innocent.

### **What About Discriminatory Application?**

Another argument against the death penalty has to do with, what appears to be its discriminatory application. Truly, there are certain cultures which find themselves more heavily incarcerated or executed. We would be unwise to fail to address the nature of such a problem. But the Scriptures do not allow the law to be applied unevenly.

**...whoever kills a man shall be put to death. <sup>22</sup> You shall have the same law for the stranger and for one from your own country; for I *am* the Lord your God (Leviticus 24:21, 22).**

Suffice it to say for now, that discriminator application is a sin. But this does not speak to the penalty itself. If there is a road where the speed limit is 25 mph and people regularly go 80 and certain groups of people get more tickets than others, the answer is not to change the speed limit or reduce the price of the ticket. It is to ask and seek to answer why the uneven nature of the citations?

### **The Cross**

There certainly many more questions than one message allows. But I would like to conclude with that which might not be as obvious as it should be. What we often fail to recognize is that the cross was an implement of capital punishment. Christ did not die in a fight or from a

disease or a war. He died from what today would have been the gas chamber, or an electric chair, or a lethal injection.

The cross was an act of divine justice. This is why God can forgive us and remain just. When God forgives us, He remains **“faithful and just” (1 John 1:9)**. If we, as Proverbs 28:5 taught us, lose our ability to discern that which is just, we will see no need for the cross. If we fail to grasp, at some level, justice, we will not see our need to be justified.

At this point, let us be reminded that justification by faith alone is the article on which the church stands or falls. That article vanishes if we fail to grasp our need to be justified. The Scriptures are a tightly woven tapestry. It is not a series of random doctrines, stories, messages and commandments. If the enemy or the world can corrupt any part of our thinking, that opens a portal to corrupt other parts of our thinking.

It is a short trip from the death penalty, to the cross, to our need to be justified. As important as it is, there is much more at stake here than social order. If we yield to a twisted understanding of justice, how will we answer Paul’s question, **“Who shall bring a charge against God’s elect” (Romans 8:33)?** Will we answer, ‘no one, for I am without guilt?’ Or will we acknowledge the legitimacy of the charge along with the force of the answer, **“It is God who justifies” (Romans 8:33)**.