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Senior Thesis

11 May 2007

A Just Law: The Old Testament Death Penalty in Modern America

Crime demands payment. Whether it is murder or speeding, the crime must be paid for. But how are crimes to be punished? What crimes should be punished, and what forms of punishment should be used? Legislators from Aristotle to Blackstone have asked these questions, and have formed complex legal systems to provide answers. The death penalty has, for centuries, been at the forefront of the debate on how to punish crime. What crimes are so heinous, so unforgivable, that they give the state the right to kill the perpetrator? In the Old Testament, when God gives the Law to Moses, He lists sixteen crimes worthy of death. The question for Americans is this: are these crimes still worthy of the same punishment today as they were in Israel millennia ago? Christians must ask themselves this question because they are called by God to take dominion over all aspects of life, and this includes the law of the country in which they live. As philosopher Paul Tillich points out, “The universe is God’s sanctuary . . . Essentially the religious and the secular are not separated realms” (107). Religion is manifested in culture, so the culture of America, and especially its laws, should reflect the influence of America’s Christian heritage and the formative impact Christianity has had on the nation. The death penalty, one of the most important aspects of law, is also one of the most important issues facing Christians today. The death penalty should be used in the United States as it was in the Law of God for the crimes which that law dictates, and it is the duty of all Americans, Christians and non-Christians alike, to ensure that this is the case.

How has the death penalty been used in America in the past and how is it presently being used? The Puritans who first settled America established the death penalty for numerous crimes. America's early years saw executions for adultery, sodomy, witchcraft, and rape as well as for murder. Since then, there has been a considerable drop in the use of the death penalty. Between 1608 and 1976 there were 14,489 executions, or approximately 39 per year (Executions in the United States). In 1972, the death penalty was declared unconstitutional by the U.S. Supreme Court. Only five years later the moratorium on executions ended (History of Death Penalty) and since 1976 there have been approximately 34 executions per year for a total of 1,069 (Executions in the United States). Today, opinion against the death penalty is as strong as it has ever been. Amnesty International declares: "The death penalty is the ultimate, irreversible denial of human rights" (Amnesty). The ACLU tells the reader that "The death penalty is the ultimate denial of civil liberties" (American Civil Liberties Union). The organization Campaign to End the Death Penalty calls capital punishment racist, unjust, ineffective, and cruel and unusual (Campaign to End the Death Penalty). With the recent botched execution of Angel Nieves Diaz in Florida and the saga of Karla Faye Tucker still heavy on the mind of Americans, capital punishment is being attacked on all sides. The modern Christian church in several cases has taken a stand against capital punishment. According to an encyclical by Pope John Paul II, the death penalty is as murderous to a Roman Catholic as abortion or euthanasia (*Evangelium Vitae*). Anglicans wish to abolish the death penalty (No Place for Death Penalty) and Episcopalians have joined them (Death Penalty Episcopal Church). The Methodist Church has called on the government to end the usage of the death penalty (United Methodist Church). In America today, a person can be sentenced to death for five crimes: murder in some form, espionage, treason, trafficking in large quantities of drugs, or plotting the killing of a witness in a trial (Death Penalty Info). The death

penalty has been declared unconstitutional in 13 states, but is still used in 37 states, almost exclusively for murder (Death Penalty Info Fact Sheet).

In the Mosaic Law, God tells Israel that sixteen crimes are worthy of death: murder, adultery, unchastity, sodomy, bestiality, homosexuality, rape, incest, incorrigibility in children, Sabbath breaking, kidnapping, apostasy, witchcraft, sorcery, false pretension to prophecy, and blasphemy. In America today, only one of these crimes is punished by death.

Punishment is inextricably linked to law. Many will wonder why punishment and law are so important. It is because law governs society. Aristotle, in *Rhetoric*, claims that, “it is on a country’s laws that its whole welfare depends” (1360a lines 19-20). Law determines the values of society. The laws which legislators leave behind shape society so that the morality of the legislators is established. Murder, for instance, is as terrible to Americans today as it was to Franklin, Jefferson, and Adams. Law is so important that even tiny details cannot be ignored. The Bible speaks to such “insignificant” details as when to pay one’s employees (see James 5:4) because those details are actually crucial (*No Other Standard* 99). Douglas Wilson has explained, “Theology comes out the fingertips, and what comes out the fingertips is your theology” (“Pomojo”). What people are prohibited from doing by the law becomes a part of their psyche, part of their presupposed moral code. Law is vital because it brings justice to society.

Justice is crucial in the study of the death penalty. Justice is “that which satisfies the demands of . . . law . . . conformed to what is right . . . When we regard [God] in his dealings with his rational creatures, we conceive of Him as [just]. He is a righteous ruler; all his laws are holy, just, and good” (Hodge 318). Deuteronomy proclaims, “For the LORD . . . shows no partiality nor takes a bribe. He administers justice” (10.17-18). Christians aspire to be like Christ who, as God in human flesh, was wholly just. Justice must, therefore, be the aim of human law.

Francis Schaeffer asserts in *A Christian Manifesto*, “Power is not first, but justice is first in society and law . . . the state is to be an agent of justice, to restrain evil by punishing the wrongdoer, and to protect the good in society” (28, 91). Men must always seek to be just, if not because of God’s command then because men always wish to have justice done to them. The aim of society should be justice, if for no other reason than that justice is necessary for order.

Justice creates order in society. Roscoe Pound asserts that “Civilization rests upon the putting down of arbitrary, willful self-assertion and the substitution of reason” (33). Russell Kirk, in dealing with Jewish law and its effects on America, states:

Yet in His mercy, Jehovah [gave] His people an opportunity to redeem themselves. . . The Law was not a punishment or an oppressive burden imposed upon [Israel] . . . it was the precious gift of Jehovah, by which Israel might exist in justice. [It] was the means for living with one’s self and living with one’s neighbors . . . for regaining order in the soul and . . . community. (26)

He goes on to assert that the Ten Commandments, far from being harsh bans on certain types of behavior, are instead “liberating rules that enable a people to diminish the tyranny of sin; that teach a people how to live with one another and in relation with God, how to restrain violence and fraud, how to know justice and to raise themselves above the level of predatory animals” (27). For there to be a state, there must be order. For there to be order, there must be justice, for only true justice can bring true order.

True justice comes from God. As William Barker notes, “Whenever we say, ‘That is just,’ or, ‘That is unjust,’ we have, consciously or unconsciously, admitted the existence of a fixed standard, because frequently this affirmation has no connection with our own private advantage or the so-called advantage of society but simply witnesses to a ‘law of nature’ within

us” (78-79). God, being perfect, is the perfection of justice. Karl Rahner and Herbert Vorgrimler, German Catholic theologians, point out that “the sole norm of divine justice is God’s own holy will” (247). God’s justice is the only means for men to attain justice. In *Democracy in America*, Alexis de Tocqueville asserts that men cannot be just, saying that “only [God’s] wisdom and justice are always equal to His power.” (241) This means that, as Dr. Greg Bahnsen observes, biblical penalties are never too lenient or too stringent, and that “If God says that some crime is to be punished by the magistrate with death, then the crime in question is indeed ‘worthy of death’” (*By this Standard* 278-279). But where is man to find justice?

The Word of God is the only source for justice. It is through the Bible that God has revealed Himself and it is there that true justice is found. Bahnsen declares, “who better would know what kind and degree of punishment is appropriate for every crime than the Lord . . . the penal sanctions for crime should be those revealed in the law of the Lord. That makes perfectly good sense” (*By this Standard* 271). 2 Timothy 3:16 states, “All Scripture is given by inspiration of God, and is profitable for doctrine, for reproof, for correction, for instruction in righteousness.” Scripture, being the perfect Word of God, gives men the standards for justice which are necessary for a completely equipped society. Therefore, the magistrate who does not follow the biblically prescribed penalties requires either more or less than the law of God. By doing either, he departs from the only just recompense for the crime (*By This Standard* 278-279).

“Mercy and truth have met together, righteousness and peace have kissed.” The prophetic words of Psalm 85:10 seem to clash with a system of law based solely on God’s justice. If God is full of grace, as the Bible claims, how can this mercy coexist with His perfect justice? Grace is necessary in a legal system which strives for justice. Is every single instance of the crimes listed above punishable by death? Must the man die who, having foolishly allowed himself to commit a

certain crime once, has repented of his sin and will not do it again? This question is particularly salient when discussing crimes such as homosexuality and adultery. If the sodomite or adulterer is clearly repentant, does he still deserve death? Bahnsen believes that the death penalty is not required of every instance of the crimes, and that there may be cases in which the death penalty becomes the maximum sentence possible, but this can only be determined on a case-by-case basis (*No Other Standard* 260). Yet in giving grace, justice must be satisfied.

Thomas Szasz, professor of Psychiatry at Syracuse, claims that “If he who breaks the law is not punished, he who obeys it is cheated” (36). For there to be grace, there must be justice. This is a necessity in a world governed by a just God. Justice must always be satisfied. If the criminal is not punished, the victim bears the pain of justice (Bahnsen, *Theonomy* 440).

For justice to have any meaning, though, crime must be clearly defined. Crime is a societal misdemeanor, rather than a personal one. It is the violation of authority placed over man by God. Paul warns Christians to “do what is good” (Romans 13.3) because the authority “does not bear the sword in vain” (Romans 13.4). Crime is public, dealt with separately from sin. Sin is a personal misdemeanor between the individual and God. Thoughts of hate and covetousness, provided they do not become physical acts, are sins. Russell Kirk asserts, “Sin . . . [is] rebellion – insurrection against God” (26). This rebellion is the breaking of a personal bond between man and God. Here civic authority has no power, for only God “looks at the heart” (I Samuel 16.7).

Crime’s effects are not limited to the individuals involved. Shortly after taking the city of Jericho, the Israelites attacked Ai. Rather than the easy conquest expected, they were routed by the smaller army of Ai. This was not the result of bad strategy, but because of the sin of a single man. Achan, of the tribe of Judah, had stolen from Jericho, and for this the nation of Israel was punished with defeat (Joshua 7). As a community, men are bound together. A single criminal can

destroy the entire structure of the society which fails to punish him justly.

Crime must be punished with justice. Martin Luther states in his *Commentary on Galatians* that “The first use of the law is to bridle the wicked. This civil restraint is very necessary . . . for the preservation of all things, but especially lest the cause of the Gospel should be hindered by the tumult and sedition of wicked, outrageous and proud men” (qtd. in House 212-213). Calvin echoes this theme, asserting that “The first use of the law is, by . . . the consequent dread of punishment, to curb [the unjust]” (2.7.10). God commands the magistrate to punish men’s crimes. In *Religion and the Death Penalty*, Gilbert Meilaender states that “A world in which each of us is permitted to [judge and punish], in which revenge and blood feuds are permitted. . . will be . . . given over to injustice” (53). Bahnsen points out that even though God punished the souls of criminals, the Old Testament also required civil punishment because the violation had a detrimental effect not only on the criminal’s soul but on the whole community. (*Theonomy* 436).

Yet punishing a crime is not enough; the punishment must be just. The death penalty is a just punishment because it is the objective standard of God. John Murray states that “Capital punishment is an evil consequent upon sin . . . but it is a divine institution” (96). In Romans 13 the Apostle Paul tells the Christian church of Rome to submit to authority because “he does not bear the sword in vain; for he is God’s minister, an avenger to execute wrath on him who practices evil” (v. 4). Murray notes, “But God also appoints ministers with the commission to be the executors of punishment with the result that they are obliged to put the penalty into effect. . . the civil magistrate . . . is responsibly the minister of God” (114).

A just legal system must provide for the use of the death penalty. The Word of God provides the only just legal system. As Bahnsen asks, “who better would know what kind and

degree of punishment is appropriate for every crime than the Lord? And where would He make this standard of justice known but in His word?" (*By this Standard* 271). The Word of God obviously mandates the use of the death penalty, the Old Testament law being, of course, the prime example. In Old Testament Israel, even when sacrifice was made for the sin which was involved with a crime, the civil penalty for the crime was still imposed (*Theonomy* 451). If the only completely just legal system is found in the Word of God, which mandates the death penalty, then some form of the death penalty is necessary for a just legal system.

America is in need of a just death penalty. Many Americans live completely against the law of God as well as man's law. The need here is not for more laws, of which there are an abundance, but for more effective laws. In America, homosexuals parade their debauchery before the rest of the nation, thriving in the culture's prevailing relativistic environment. The reinstatement of the death penalty on a wider scale will curb the spread of crimes such as adultery and homosexuality, restoring many of the most corrupted facets of this nation. The moral fabric of America today is being destroyed by the crimes punished by death in the Old Testament. Adultery, the rebellion of children, and homosexuality have destroyed the family in America, and with the slaughter of infants that continues daily, the sanctity of life is soon to follow. Were the death penalty enacted for even some of these crimes, America would have made back much of the ground her citizens have allowed her to lose over the last century.

If the death penalty is needed by modern society, then what crimes are worthy of death? The death penalty must be used to punish all the crimes listed in the Old Testament Law as worthy of death. That is, the crimes of murder, adultery, unchastity, sodomy, bestiality, homosexuality, rape, incest, incorrigibility in children, Sabbath breaking, kidnapping, apostasy, witchcraft, sorcery, false pretension to prophecy, and blasphemy. This conclusion is absolutely

necessary for three reasons.

First, the perfect justice of God cannot be improved upon. God is perfectly just and his Word is therefore the perfect standard for justice. The justice and equity of God's law is perfect and timeless. As Bahnsen declares,

[In God's law,] crimes have meted out to them precisely what justice says they deserve . . . if a magistrate departs from the strict justice and equity of the Biblically prescribed penalties for crimes, then the magistrate . . . will depart from the norm of equity . . . and thus will be unjust. (*By this Standard* 278-279)

Psalm 119 alone is evidence of this fact. For 176 verses the psalmist praises God's law and word. In verse 151 the reader finds, "You *are* near, O LORD, And all Your commandments *are* truth" (119.151). Psalm 19 states, "The law of the LORD is perfect . . . The statutes of the LORD are right . . . The commandment of the LORD is pure . . . The judgments of the LORD are true and righteous altogether" (19.7-9). Because of this truth, it is certain that God's commands are perfectly just and never too harsh or too lenient (*No Other Standard* 226). If God's justice is "altogether" perfect as Psalm 19 claims it is, it cannot be improved upon by men. Bahnsen makes the point that "The law reflects not only the presence but the moral character of God . . . God alone is good; yet because the law reflects His moral goodness, it too is designated 'good' [by Scripture]" (*Theonomy* 142). He continues, asserting that the Law is holy because it "transcribes the moral perfection of God" and "exhibits the moral excellence of God" (*Theonomy* 143). And all the same, men try to create their own justice. They set up moral codes and legal structures using God-given institutions such as courts, legislatures, and chief justices. To create morality is to make an arbitrary code of law, based on man's desires. The reason these laws are made is to govern men. And by what authority can man govern another man? If the ruler stands outside of

the authority prescribed by God in Romans 13, that is, if men rule without the law God has given to them, they rule by nothing other than sheer power. Without an objective standard to govern a nation, then, law is nothing more than a forcing of one man's moral code on another, and men can no more, for example, protest the abolishing of free speech than the punishment of murderers because both are the views of the law maker they have subjected themselves to. When the death penalty is not enforced, society is allowed to run free in evil, because there are no legitimate penal sanctions left. Only the illegitimate and arbitrary punishments imposed by the state remain (*Theonomy* 447). American society demonstrates this. While the death penalty has not been removed, it has only been left for what a particular society views as the most horrific of crimes, not what God Himself calls the worst of crimes, and has therefore become an arbitrary standard. L. Harold DeWolf, a former dean at Wesley Theological Seminary, attacks the death penalty, claiming that it "is always applied by selection based upon poverty, race, unpopularity, or the like" (205). This may be true, yet far from injuring a biblical view of the death penalty, it provides even more support for it. America's death penalty is based upon the arbitrary judgments of men, and so the decisions of judges become arbitrary. The law of God has been ignored and therefore man's feeble attempt at justice in law is broken. Restoring true justice to America requires that her citizens return to the only perfect law ever created.

Second, the deeds punished by death in the Old Testament law are just as heinous to God today as they were in the day when God gave the law to Moses. The Mosaic Law is merely the specific application of the Ten Commandments to society. As Tremper Longman observes, "The case laws are specifications of the general principles of the Ten Commandments" (46). The question then becomes, are the Ten Commandments applicable to believers today? If they are, as most Christians would affirm, then is it not a logical necessity that the specifications of the Ten

Commandments are still applicable? Furthermore, is it not also necessary that breaking any of the Commandments is still as severe in God's eyes as it was in the Old Testament? God is the same yesterday, today, and forever, and therefore the crimes which were horrible enough in His sight to deserve the death penalty are just as heinous today. Evil is the same before God, because He is the same. Exodus 22:18 prohibits that a witch should live. Being more lenient as a general rule is to disobey the command entirely (*By This Standard* 277). It is the filthiness of witchcraft and bestiality that is condemned, and that evil still remains in those sins today. Romans 7:7 asks, "What shall we say then? Is the law sin? Certainly not! On the contrary, I would not have known sin except through the law." For Paul, the law defines sin. This means that the deed is just as evil in the New Covenant as it was in the Older because the law is the same. God never changes, and therefore crimes He condemned with death in the Old Testament are just as evil and deserving of death today as they were some three thousand years ago.

Third, the crimes punished by death in the Old Testament law are crimes which will result in the death of individuals, families, or societies. American culture is full of death. The news contains dozens of instances of this every day. In one story, a man who had a child with a woman outside of marriage stabbed the 11-month-old boy in the back with a kitchen knife before driving away ("Cops Charge Indiana Dad"). In Ezekiel 16 God tells Israel,

"Neither your sister Sodom nor her daughters have done as you and your daughters have done . . . they were haughty and committed abomination before Me . . . Samaria did not commit half of your sins; but you have multiplied your abominations more than they, and have justified your sisters by all the abominations which you have done . . . the sins which you committed were more abominable than theirs; they are more righteous than you . . . I will deal with you

as you have done, who despised the oath by breaking the covenant.” (16.48-59)

These verses have a chilling relevance today. Sodom and Gomorrah are a byword to modern Americans, and yet the sins Americans commit are so much “more abominable” in the sight of God than theirs. Indeed, they are more righteous! After all, at least Sodom never claimed a Christian morality or heritage. Instead, pagans around the world see the American church smiling as homosexuals are ordained into the ministry, adulterers are encouraged to become deacons and elders, and the church’s own children are surrendered to the culture without so much as a whisper. American society has legalized and smiled upon actions which result in death. As in every rotting culture from the beginning of time, the family suffers first. Crimes such as homosexuality, adultery, unchastity, and the rebellion of children result in the death of the family. According to a U.S. Census, in 2003 single parent families accounted for over 30 percent of the families in America. Crimes such as witchcraft and blasphemy result in the death of a culture. In a godless society, a people will perish. America proves this proverb true. How far this nation has come from 1776, when George Washington sent out an order to his troops stating that he was “sorry to be informed that the foolish and wicked practice, of profane cursing and swearing (. . . heretofore little known . . .) is growing into fashion; he hopes the officers will . . . endeavor to check it” (Papers of George Washington). In a culture that knows no God, there is no reason to obey the law if nobody is looking. The culture victimized by this mindset dies. God demands a life for a life in the Mosaic Law, and thus these crimes must be punished with death. In return for causing the death of society, the death of the family, or the death of the individual, and in some cases all three, the criminal is deserving of the death penalty, and anything less is the severest injustice.

Rehabilitation is one of the most popular alternatives to using the death penalty. Instead

of destroying the person who commits the crime, the goal of the rehabilitationist system is to change their heart and mind in such a way that they will no longer commit the crime, at which point they may be released back into society. Often, this is the result of the belief that crime is an illness of which men must be cured. But, “If sin is reduced to societal illness . . . then no one can be blamed or punished for being sick . . . [and] punishment ceases to have any meaning at all” (Carlson 172). The result of sin without punishment will be the death of a society by its moral downfall. Sin is not a curable disease. Many Christians support rehabilitation because they believe that killing the person may take away the opportunity for that individual to be saved. Perhaps the most important case when discussing rehabilitation is that of Karla Faye Tucker. Tucker was 24 when she entered a home with her boyfriend and murdered two people with a pickaxe. Yet while on death row, Tucker became a Christian. According to everyone who visited her, her conversion was genuine, and consequently hundreds of thousands around the country and the world began pleading with then-governor of Texas, George W. Bush. Bush, however, rejected this plea and Tucker was executed in 1998. Was this right? A supporter of rehabilitation would disagree, and believes that this act destroys all semblance of justice. Yet a closer examination reveals a different truth. If a criminal is converted after being lawfully convicted of a crime, should not that criminal say, as Paul did, “If I am an evildoer and have committed anything worthy of death, then I refuse not to die” (Acts 25.11)? The conversion of criminals cannot hinder the application of the law (*Theonomy*, 449). William Barker states that “allowing the murderer to live, thus failing to meet the requirements of justice, could do a great injustice to him in this life. Physical life, after all, is not man’s most valuable possession. A man’s opportunity to repent and prepare for eternity is . . . Laxity . . . is not necessarily conducive to the repentance of the criminal” (99). Refusing to enact the death penalty because it does not

fulfill the duties of Christians under the Great Commission is to put Scripture in conflict with Scripture. God's Word, however, is divinely inspired perfect truth and therefore cannot be set in contradiction with itself (Bahnsen, *By This Standard* 280-281). A second consideration in this argument is that grace cannot be had without someone paying the price required for justice. If a crime is an act against the civil authority as well as a sin against God then these crimes must be punished to have justice. If they are not punished then it is the innocent that bears the penalty instead of the guilty. If Karla Faye Tucker is not punished for murder, then those whom she killed suffer the consequences of her actions and are punished for what they did not do. Someone must pay for justice.

This duty to punish, however, does not in any way inhibit the church's duty to minister to criminals. Instead, criminals should be ministered to with all the more fervor and diligence because of their impending fate. The possibility of their conversion, though, is no reason to waive the death penalty. Bahnsen declares that "it is presumptuous for the believer to set aside obedience to God's law on the basis of what might or might not happen in the future" (*Theonomy* 448).

Some advocates of the death penalty believe that it should only be used for cases of murder; that is, that a life should only be taken for the taking of a life. One of the most articulate defenses of this position is found in the writings of theologian John Murray. Murray claims that the death penalty applies only to murder because Christ has fulfilled the rest of the law, yet the covenant between God and Noah still has applicability today. The Noahic covenant declares, "Whoever sheds man's blood, by man his blood shall be shed; for in the image of God He made man" (Genesis 9:6). Murray states that "Genesis 9:6 [is] a charge given to man to execute the death penalty . . . the reason given for [using the death penalty] is one that has permanent

relevance and validity” (111-112) and concludes that “capital punishment for murder is, therefore, in a different category [because] the reasons . . . are radically different” (113). Many would agree with Murray because while men rightly fear to punish too severely, men also have an innate hatred of murder. Yet it must be asked, why is the Noahic covenant still valid if the law of the Old Testament is not? Dan McCartney proffers the belief that “the agency of man in applying a sanction is invoked only with . . . murder. This means that the only sanction required . . . is the death penalty for murder” (qtd. in Bahnsen, *No Other Standard* 147).

Greg Bahnsen, however, responds to Murray and McCartney by asserting that their argument is self-refuting. If the Old Testament penal system has been abrogated, he claims, there can be no way to recover the death penalty (*By This Standard* 283-284). He states,

One can understand how much more difficult it would be to defend the position that the penal sanctions have been abrogated today, except for one (namely, the death penalty for murder). Such a position fails to show that the penal sanctions have been laid aside *in general*. At best it . . . [says] that such social penalties were not mentioned, for instance, by Paul when he spoke to the Corinthian church about an incestuous fornicator . . . a consideration of silence is logically fallacious. What is important is the *presumption* of continuing validity taught elsewhere by Christ and Paul. Silence cannot defeat that presumption, for the presumption can be turned back only by a definite word of abrogation. (*By This Standard* 282-283)

By choosing to follow the Noahic covenant and not the covenant with Israel, Murray and others have made a false distinction. As Bahnsen points out, they fail to show “that the penal sanctions have been laid aside *in general*.” Instead they attempt to prove that Christ has fulfilled

the Mosaic Law while not fulfilling the Noahic covenant. This, however, cannot be the case. If the Mosaic Law is fulfilled, then the death penalty for murder that it carried must also be fulfilled. Murray asserts that because man is still made in the image of God, the reason for punishing murder with death is still valid. Yet in appealing to the *imago Dei*, Murray has assumed that the basic nature of God and the basic nature of man are unchanged since the Noahic covenant. And if this is the case, then God's nature and His view of evil are the same and therefore the crimes deserving of death centuries ago are just as worthy of death today.

Many Americans disagree with the death penalty because it is an ugly thing; describing it as "state-sponsored murder" and "torture" (*The New Abolitionist*). Agreed, the death penalty is not a desirable thing. No punishment is. But this has no bearing at all on the truth. It is an evil, horrible thing and a hideous tool. All men should work for the day when there is no longer a need for the death penalty or any penalty whatsoever. But until that day, God Himself demands that it be used. God's command to exercise the death penalty far exceeds the desires of men. John Murray explains, "It is true, of course, that all punishment is evil; for all punishment is the wages of sin. But it does not follow that . . . punishment is per se sinful" (114). What men feel, want, or find distasteful is completely irrelevant in the face of God's justice.

One of the most important attacks against the applicability of the Old Testament death penalty laws today comes from within the Christian church. This argument claims that with the coming of Christ the Old Testament laws were abrogated in favor of the New Covenant of grace. Another branch of this same argument asserts that the death penalty laws are irrelevant in American culture because they were specifically designed for the Jewish culture. However, the death penalty laws have not been abrogated for three cardinal reasons.

First, the death penalty laws have not been abrogated because they are an integral facet of

the just character of God. The opposing view is illustrated by a statement from the Christian Reformed Church, which asserted that,

The Bible was originally addressed to definite situations and to people living under particular circumstances . . . for example, commandments and exhortations given at a certain time and place are not necessarily universally applicable. The entire legal structure of the Old Testament applied then and there . . . no longer now and here. Not that we no longer learn from that legal structure, but . . . the manner in which it applies has drastically changed. This is so because of the fulfillment of the law of Christ, but also because [of] circumstances (469,470)

The law, however, is an outworking of God's perfect justice. While the outward appearance of the crime may differ, the nature of the crime itself remains the same. An adulterer has committed the same crime today as he did in Israel, just as homosexuality today is still the same vile act it was millennia ago. God's just character has remained the same; to deny this is to deny God Himself. Therefore, the crimes retain their wickedness in the sight of God, and the Old Testament penalty *must* be applicable here and now. To claim that a change in circumstances removes man's responsibility to obey the commands of God is simply unfounded. After all, a difference in circumstances has not kept the church from frowning on incest in the same way Paul did in Corinthians. God is the same, His justice is the same, and therefore His law is the same in relevance and applicability.

Second, the death penalty laws are not irrelevant because they are the timeless standard which God calls the magistrate to enforce. In *Theonomy: A Reformed Critique* Tremper Longman notes that, "As we apply the law and the penalties to contemporary society we must first inquire into the cultural differences between ancient Israel and modern America" (47).

Agreed, it is not as wise for Americans to put fences around their shingled rooftops as it was for the Jews, simply because of cultural differences. These differences, however, have no effect on the justice or injustice of law and the penal system of that law because they have no effect on the just nature of God. God's nature has not changed, and neither have his standards for justice. The magistrate is still called to enforce the penal sanctions of God's law. In the Old Testament, the magistrate was in most cases appointed by a direct mandate from God, yet New Testament believers do not have this blessing. Paul, though, tells believers that they are still to obey the magistrate in Romans 13. "Let every soul be subject to the governing authorities. For . . . [they] are appointed by God. Therefore whoever resists the authority resists the ordinance of God . . . he is God's minister to you for good. But . . . he does not bear the sword in vain; for he is God's minister, an avenger to execute wrath on him who practices evil" (13.1-5). The magistrate's duty to punish with death according to the sanctions of God's law did not end in the Old Testament but continues to this day, for why else is he given "the sword?"

Third, the change in covenants between the Old and New Testaments does not result in the abrogation of the death penalty laws. Longman asserts that "we must recognize that there is more than a cultural difference between Israel and America; there is also a difference in their respective places in redemptive history" (46). While the place in redemptive history is different, the covenant remains, though it has been expanded. In Acts 25:11 Paul is accused of many crimes by the Jews and proclaims, "If I am an offender, or have committed anything deserving of death, I do not object to dying." Many opponents of the death penalty point out Christ's words to the woman caught in adultery in John 8 and assert that because of this incident the death penalty laws are no longer valid because Christ no longer condemns us. Bruce Ballard disagrees.

Does Jesus' reply call for the abolition of the death penalty? . . . If it did, it would

amount to nullifying the Mosaic Law . . . [Instead, with] the invitation for the one “without sin” to cast the first stone, Jesus successfully appeals to the consciences of his opponents The rightness of the penalty *in principle* is not being discussed. And for Jesus to tell the woman he does not condemn her to death is perfectly in keeping with the facts that he was not an eyewitness, was not a Sanhedrin member, and was not a Roman magistrate. Finally . . . it is Jesus who applies the penalty of eternal hell to so much as calling another person ‘fool’ (Matt 5:22), to suggest that he, in principle, could not support the lesser penalty, capital punishment, is unwarranted. (Ballard 476-477)

The covenant between God and man began with Adam, then came to Noah, then to Abraham, and then to Moses, until the time of Christ. Yet even then the covenant was not canceled; rather, it was expanded to include the Gentiles. Longman claims, “Since God chose Israel as a nation to be his elect people, it was intolerable that a blasphemer or idolater or witch could be allowed to live . . . however, God has not chosen America as a nation” (48). Instead, He has chosen the entire world. The church is the new Israel, as Paul describes it in Romans 9:6 and Romans 11. God has added the church into His covenant rather than creating a whole new covenant. In Matthew 5:17-19, Christ proclaims, “Do not think that I came to destroy the Law or the Prophets. I did not come to destroy but to fulfill. For assuredly, I say to you, till heaven and earth pass away, one jot or one tittle will by no means pass from the law till all is fulfilled. Whoever therefore breaks one of the least of these commandments, and teaches men so, shall be called least in the kingdom of heaven; but whoever does and teaches *them*, he shall be called great in the kingdom of heaven.” A great number of theologians believe that the Law was fulfilled and abrogated when Christ said “It is finished.” Yet others say that the Law will not be

fulfilled until the final judgment. A. M. Honeyman asserts: “The attitude . . . expressed by Jesus . . . is one of unqualified acceptance . . . [the Law] is to be observed in every detail and . . . is eternal, and its most minute prescription retains its validity . . . so long as the created world endures” (qtd. in Bahnsen, *Theonomy* 85). Also, some ask, why would Christ teach His followers to obey the law of Moses if it was no longer binding? (*Theonomy* 85). If this is the case, then the penal system of the Old Testament must remain valid today. And if the penal system is applicable at all, then it must be applicable in its entirety. Otherwise, the magistrate is forced to draw arbitrary distinctions to determine which crimes are still worthy of death, and in so doing undermines the authority of the entire law. Therefore, the entire penal system of the Older Testament must remain applicable today in the Newer Covenant.

If America establishes the death penalty in the way that it was established in Old Testament Israel, there will be a multitude of blessings for America. First, the repair of moral decay in America will begin. Bahnsen observes that enacting the death penalty in the way prescribed by Scripture, “Far from leading to numerous more executions . . . few will commit such crimes and need to be punished. God’s sanctions bring safety, protection, integrity, and life to a community — not a blood bath” (*By This Standard* 281). Psalm 12 depicts a society much like America; where the “godly man ceases . . . with a double heart they speak” (12.1-2). The psalmist has hope, though, because “‘For the oppression of the poor . . . now I will arise,’ says the LORD; ‘I will set him in the safety for which he yearns’” (12.5). But how will God do this? The very next words are these: “The words of the LORD *are* pure words, like silver tried in a furnace of earth, purified seven times” (12.6). The importance of God’s words, that is, His law, is plain. This law will place the people of God “in the safety for which [they long].” Enacting the Old Testament law’s penal system will aid in restoring families, ending the glorification of

homosexuality, and preventing murders, just to name a few. Second, the nation will receive the blessings consequent to obeying any of God's commands. The psalmist extols God's goodness towards those who keep His law. By keeping the law of God, America receives the promise of God that these blessings will be showered upon her. Bahnsen asserts that, "when we learn to think God's thoughts after Him [by 'loving His law, obeying His voice'], then our lives and our nation will be well pleasing in the Lord's sight and benefited with His blessing" (*Theonomy* 34).

America's culture is rotting. Fathers stab their own infant children, homosexuality is glorified, and unborn children are murdered. Instead of "Freedom at any cost," America's motto, like Israel, should be "Holiness to the LORD" (Ex. 39:30). Americans have a duty to enact the penal sanctions of the Mosaic Law in their country. After all, citizens should want what is best for their country and what will keep it pure before God. Therefore, American Christians, as they seek to fulfill the Great Commission, must work to establish the Old Testament death penalty in their society not only because it is what God commands, but because it is the best thing for the society. It will help to repair America's moral decay; she will receive the blessings of God, will regain much of her lost stability, and will regain her moral greatness. In Romans 7:7, Paul asks, "What shall we say, then? Is the law sin? Certainly not! Indeed I would not have known what sin was except through the law." The law is not a curse, nor is the death penalty a curse. Instead, it is "the precious gift of Jehovah, by which [we may] exist in justice . . . the means for living with one's self and living with one's neighbors; [and] for regaining order in the soul and in the community" (Kirk 26). This is not to say that writing more laws will save society. But by enacting the penal system of the Old Testament, America will be creating a sure foundation for her government and judgments. As Leviticus 26:12 states, when the law of God is established, "[God] will walk among you and will be your God, and you shall be [His] people."

Works Cited

- American Civil Liberties Union: Death Penalty*, 3 April 2007. American Civil Liberties Union. 3 April 2007. <<http://www.aclu.org/capital/index.html>>
- Aristotle. *Rhetoric*. Trans. W. Rhys Roberts, Ingram Bywater. New York, NY: Random House, Inc., 1954.
- Bahnsen, Greg. *By This Standard*. Tyler, TX: Institute for Christian Economics, 1985.
- . *No Other Standard*. Tyler, TX: Institute for Christian Economics, 1991.
- . *Theonomy in Christian Ethics*. 2nd ed. Phillipsburg, NJ: Presbyterian and Reformed Publishing Company, 1984.
- Ballard, Bruce. "The Death Penalty: God's Timeless Standard For The Nations?" *Journal of the Evangelical Theological Society*. September 2000. 471-487.
- Baker, William. *On Capital Punishment*. Chicago, IL: Moody Press, 1985.
- Calvin, John. *Commentary on the Book of Psalms*. Trans. James Anderson. Grand Rapids, MI: William B. Eerdmans Publishing Company, 1963.
- . *Institutes of the Christian Religion*. Ed. John T. McNeill, Trans. Ford Lewis Battles. Philadelphia, PA: Westminster, 1960.
- Campaign to End the Death Penalty*, 3 April 2007. Campaign to End the Death Penalty. 3 April 2007. <http://nodeathpenalty.org/content/page.php?cat_id=1&content_id=21>
- Carlson, John D., Eric P. Elshtain, Erik C. Owens, eds. *Religion and the Death Penalty: A Call For Reckoning*. Grand Rapids, MI: Wm. B. Eerdmans Publishing Co., 2004.
- Christian Reformed Church Board of Publications, eds. *The Nature and Extent of Biblical Authority*. Grand Rapids, MI. 1971.
- Church, F. Forrester, ed. *The Essential Tillich: An Anthology of the Writings of Paul Tillich*.

New York: Macmillan Publishing Co., 1987.

“Cops Charge Indiana Dad With Attempted Murder for Stabbing 11-Month-Old, Throwing Him Out Window.” *Fox News*. 15 March 2007. 3 April 2007.

<<http://www.foxnews.com/story/0,2933,258929,00.html>>

The Death Penalty - Amnesty International, 13 February 2007. Amnesty International. 3 April 2007. <<http://web.amnesty.org/pages/deathpenalty-index-eng>>

“Death Penalty: Overview.” *United Methodist Church*. 19 April 2007. 19 April 2007.

<http://www.umc.org/site/c.lwL4KnN1LtH/b.2248845/k.5F14/Death_Penalty_Overview.htm>

Death Penalty Information Center. “Facts About the Death Penalty.” 2 April 2007. Death Penalty Information Center. 3 April 2007 <<http://www.deathpenaltyinfo.org/FactSheet.pdf>>

“Death Penalty Religious Statements The Episcopal Church.” *Religious Organizing Against the Death Penalty*. 16 March 2006. 19 April 2007.

<<http://www.deathpenaltyreligious.org/education/statements/episcopal.html>>

“Evangelium Vitae – Ioannes Paulus PP. II – Encyclical Letter (1993.03.25)” *Vatican: The Holy See*. 20 June 2005. 19 April 2007.

<http://www.vatican.va/holy_father/john_paul_ii/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html>

“Executions in the United States, 1608-1976, By State” *Death Penalty Information Center*. 2007.

6 May 2007. <<http://www.deathpenaltyinfo.org/article.php?scid=8&did=1110>>

Federal Laws Providing for the Death Penalty. 3 April 2007. Death Penalty Information Center.

3 April 2007. <<http://www.deathpenaltyinfo.org/article.php?scid=29&did=192>>

Hodge, Charles. *Systematic Theology, Vol. I*. Grand Rapids, MI: Wm. B. Eerdmans Publishing

Co., 1940.

House, H. Wayne, ed. *The Christian and American Law*. Grand Rapids, MI: Kregel Publications, 1998.

Kirk, Russell. *The Roots of American Order*. 4th Ed. Wilmington, DE: Intercollegiate Studies Institute Books, 2003.

Longman, Tremper. "God's Law and Mosaic Punishments Today." *Theonomy: A Reformed Critique*. Ed. Barker, William S. and W. Robert Godfrey. Grand Rapids, MI: Academic Books, 1990.

Murray, John. *Principles of Conduct, Aspects of Biblical Ethics*. Grand Rapids: W.B. Eerdmans Publishing Co, 1957.

"No Place for the Death Penalty." *The Anglican Church in Melbourne*. 19 April 2007.

<https://www.melbourne.anglican.com.au/main.php?pg=news&news_id=2344&s=986>

"Papers of George Washington." *University of Virginia*. 3 April 2007.

<<http://gwpapers.virginia.edu/articles/knauft.html>>

"Part I: History of the Death Penalty." 2 April 2007. Death Penalty Information Center. 22 April 2007.

<<http://www.deathpenaltyinfo.org/article.php?scid=15&did=410#TheDeathPenaltyinAmerica>>

Pound, Roscoe. *Criminal Justice in America*. New York, NY: Henry Holt and Co., 1930.

Rahner, Karl, and Herbert Vorgrimler. *Theological Dictionary*. Ed. Cornelius Ernst. Trans. Richard Strachan. New York, NY: Herder and Herder, 1965.

Schaeffer, Francis. *A Christian Manifesto*. Westchester, IL: Good News Publishers, 1982.

Szasz, Thomas S. *The Meaning of the Mind: Language, Morality, and Neuroscience*. Westport,

Conn: Greenwood Publishing Group, 1996.

de Tocqueville, Alexis. *Democracy in America*. Trans. Harvey Mansfield and Delba Winthrop.

Chicago, IL: University of Chicago Press, 2000.

Wilson, Douglas. "Got My Pomojo Working." Blog and Mablog. 5 September 2006. 6 May 2007.

<<http://www.dougwils.com/index.asp?Action=Anchor&CategoryID=1&BlogID=2770>>.

"Witness to an execution: an interview with Barbara Becnel." *The New Abolitionist*. September 2006. 3 April 2007. <http://www.nodeathpenalty.org/content/new_abolitionist.php?issue_id=2&story_id=22>.