

## Capital Punishment

By Reggie Ecarma - Mar 22, 2003 - 8

### History

Capital punishment, or the “death penalty,” centers on the issue of life. For the sake of human life, the death penalty has been applied in American law for 350 years. When *Furman v. Georgia* came along, the issue changed. In this 1972 capital punishment case, the majority in the United States Supreme Court declared the statutes to be unconstitutionally “cruel and unusual<sup>1</sup>.”

Historically, the Supreme Court’s decision in *Furman* was in itself unusual. Previously the Court utilized the words cruel and unusual but not in direct relation to the death penalty. For example, the Court supported capital punishment in these cases: in *Wilkerson v. Utah*, 1878, death by firing squad; and in *In re Kemmler*, 1890, death by electrocution. Both cases had been endorsed by the Court in the 19th century. More than 50 years later, the Court further endorsed the “strap[ping] [of] a prisoner into the electric chair a second time after a faulty system failed in the first attempt” (*Louisiana ex rel Francis v. Reswebe*, 1947)<sup>2</sup>.

A year before *Furman*, the same Supreme Court upheld procedures in which juries in two states had complete discretion in applying capital punishment (*Mc Gautha v. California* and *Crampton v. Ohio*, 1971)<sup>3</sup>. What exactly happened in *Furman*?

Twenty-six year old William Henry Furman, an African American and a sixth grade dropout, was convicted of murder. While breaking and entering, Furman killed the Caucasian homeowner. A jury sentenced him to death and upon appeal, the state appellate court upheld the sentence. In the Supreme Court appeal, the Legal Defense Fund, a branch of the National Association for the Advancement of Colored People (NAACP), which “had been waging a legal battle against capital punishment”, argued Furman’s case. The Court reversed settled law by declaring that “carrying out of the death penalty in [this case] constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments<sup>4</sup>.”

### The Current Situation

On the hope that the Court would allow the death penalty in other cases, state legislatures wrote laws to adapt to the Supreme Court’s new view of limited or “guided discretion” laws for juries. In other words, states tried to write laws that did not call for mandatory death penalties, but called for “rational” or “objective standards” for juries when imposing the death penalty. The state effort to bring back the death penalty was successful. In 1976, the Supreme Court “held that capital punishment per se was not unconstitutional” (*Gregg v. Georgia*). In the 1970s, 1980s and 1990s, states that brought cases which reflected limited or guided discretion laws (for juries to apply the death penalty) were upheld by the Supreme Court<sup>5</sup>.

Capital punishment is still a critical issue of debate in the Supreme Court and in the court of public opinion.

Today, in the Supreme Court, the debate is not mandatory capital punishment for every murder or abolition of the death penalty, but pruning the punishment to prevent minors or mentally handicapped individuals from being executed. According to a recent Gallup Poll, politically, 70% of Americans support some form of the death penalty<sup>6</sup>.

Basically, political liberals oppose the death penalty while conservatives support it. The leading left-leaning magazine *The New Republic* even had two prominent individuals, Edward I. Koch, former mayor of New York City, and David Bruck, argue the issue<sup>7</sup>. Koch, a Democrat, supported capital punishment, while Bruck “is devoted almost entirely to the defense of person under death sentence<sup>8</sup>.” Critics attack the application of capital punishment as unjust and racist<sup>9,10</sup>.

Theologically, most mainline Protestant churches, such as Presbyterian Church in the USA, many Episcopal, and Lutheran churches, oppose the death penalty. Even some historically evangelical churches such as the United Church of Christ and many Methodist and Baptist churches opposed capital punishment. The Roman Catholic Church supports capital punishment in principal but holds that current application is unnecessary since we have matured as a culture<sup>11</sup>. On the other hand, most Protestant conservatives, including the majority of members of the Southern Baptist Convention, and other growing evangelical movements such as Reformed Christians and Conservative Baptists, support capital punishment on biblical grounds.

## **Responding to Opposing Views**

1. The New Testament does not teach capital punishment.

First, the Bible should not be separated by erecting a wall between the Old and New covenants. The Lord Jesus based his teaching on the Old Testament and did not do away with it but fulfilled it. He accepted capital punishment from God-ordained human authority by dying on the cross. Furthermore, despite the due process being flawed under Roman rule, the apostles also accepted the state’s right to apply capital punishment (Rom 13:1-5). Finally, Jesus told the rich young ruler to keep the commandments (Lk 18:18-22), which included the sixth, “You shall not murder.” The Lord did not say to do away with the law and commandments; in fact, he established them (Mt 5:17).

2. Jesus commanded people to “turn the other cheek”. (Mt 5:39, Lk 6:29)

In Scripture interpretation, context is king. The context here is on a personal level. Jesus affirms here the Old Testament teaching of “You shall not hate your brother in your heart” and “you shall not take vengeance” (Lv 19:17-18). We are not to personally hate or retaliate against personal offences that do not immediately threaten our lives or others. We are to leave retaliation to civil authorities, and the civil authorities, when necessary, will take up the sword as God’s ministers (Rom 13:1-5).

3. Capital punishment is simply the manifestation of rage and revenge.

During the implementation of the death penalty, any individual involved in the pursuit of justice, whether judge, jury, family member or friend of the victim, must first set aside personal revenge and hatred by acknowledging that the convicted is made in the image of God (Gen 1:26-27) and must be afforded value, dignity and significance. The convicted must also be judged as primarily responsible for the death of another valued human being. As St. Augustine said, "Penalties must be applied. I don't deny it, I don't forbid it; only let it be done in a spirit of love, a spirit of caring, a spirit of reforming."

4. Lex talionis (an eye for an eye, life for life from Mt 5:38; Ex 21:24; Lev 24:20; Deut 19:21) is barbaric and violent. Violence breeds violence. Two wrongs do not make a right.

Historically, millions have been executed for small, petty "crimes," such as gossiping against the king and his liaison or for being the "wrong" ethnicity. God grants mercy and justice by demanding retributive justice—"life for life" not life for gossiping or wrong ethnicity. Unlawful, premeditated killing by an aggressor should be punished by ending the life of the aggressor in order to honor the life of the innocent dead.

Matthew 5:38 states, "You have heard that it was said, 'Eye for eye, and tooth for tooth.' But I tell you, do not resist an evil person." These words of the Lord must be put in proper context. Jesus was addressing the crowd on a personal level—individual responsibility—in the private sphere. He was not addressing the crowd on a governmental official level. Individuals who hold government posts must not take vengeance personally; but as the bearer of the sword, or applying the government office, he or she must apply justice that has been demanded by God. Romans 13:4 states, "He is God's servant, an agent of wrath to bring punishment on the wrongdoer."

5. Capital punishment should be abolished since it is not applied perfectly.

Since when have we abolished something extremely important because human beings do not apply activities perfectly? For example in America's war against terrorism, innocent civilians and military lives may be jeopardized, should we then just give in to terrorism and try to "talk" to them as the Clinton Administration attempted to do? Likewise, we have small-scale terrorists in our cities. They are called murderers, and society must also defend itself against them.

Regarding reforms, reforms have been made for almost half a century. Much has been accomplished but perfection is beyond our human ability. As a minority (I'm a native Filipino), I have experienced discrimination, and it is tragic when people are hurt and families broken, but let me be clear: the divine institution of capital punishment should not be overthrown, but perfected for the sake of children, parents, grandparents—for civil society. Reforms need to continue, but so does capital punishment, because the Maker of nations, our Creator, demands it: "And from each man, too, I will demand an accounting for the life of his fellow man. 'Whoever sheds the blood of man, by man shall his blood be shed; for in the image of God has God made man' (Gen 9:5-6); "... whoever kills a man must be put to death" (Lev 24:21).

6. A person cannot be pro-life and pro-death penalty.

The apparent contradiction is only skin deep. As someone who has supported actively the pro-life cause for almost 20 years, I propose to you these distinguishing contexts.

First, abortion typically involves the willful destruction of a very vulnerable, innocent, pre-born human life. On the other hand, capital punishment typically involves adult criminals unanimously convicted by a jury of their peers, found guilty by 20-80 courts, from state, appellate to the supreme courts, found guilty by the governor, for heinous crimes against humanity, and for the willful and deliberate murder of innocent human life.

Second, pre-born children deserve the right to life, but the adult murderer, due to deliberate destruction of innocent human life, has forfeited his or her life. In fact, he or she has earned capital punishment. Scripture makes a similar case regarding the penalty for sin: "for the wages of sin is death" (Rom 6:23); "And according to the law almost all things are purged with blood, and without shedding of blood there is no remission" (Heb 9:22).

### **Biblical Response**

Proponents and opponents of capital punishment claim the moral high ground, asserting that their position is good and good for the people. Jesus said that goodness resides in God alone, stating, "There is only One who is good" (Mk 19:17) and "No one is good-except God alone" (Mk 10:18). This good God created each person in his image (Gen 1:26-27) and directed that "Whoever sheds the blood of man, by man shall his blood be shed; for in the image of God has God made man" (Gen 9:6). Also, God orders "life for life" (Ex 12:23; Deut 19:21) and "whoever kills a man must be put to death" (Lev 24:21).

One may claim that these commands have been made null and void by Jesus, however Jesus said, "Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them" (Mt 5:17). Jesus continues, "Anyone who breaks one of the least of these commandments and teaches others to do the same will be called least" (Mt 5:19). As God's creation laws, the Ten Commandments, particularly the sixth commandment, "You shall not murder" remains. Again, Jesus said "You know the commandments: 'Do not murder'" (Mk 10:19; Lk 18:19).

If God has ordered and continues to direct the death penalty for murder, which has been affirmed by Jesus, then who applies the ultimate penalty? According to Genesis, God has commanded "man" (Gen 9:6). But not just any man. Romans 13 specifies that individuals who have been designated as governing authorities are ordained by God to wield the "sword," bringing "judgment" and "terror" to those who do wrong (Rom 13:2-3). Such an authoritative man is actually "God's servant, an agent of wrath to bring punishment on the wrongdoer," to bring justice for the sake of God's image in each murdered individual. He who rebels against God's order and his authorities in this life and death matter actually is "rebellious against what God has

instituted, and those who do so will bring judgment on themselves” (Rom 13:2). What shall we say then?

<sup>1</sup> Maiman, R.J., & Steamer, R.J. (1992). *American Constitutional Law: Introduction and Case Studies*. St. Louis, MO: McGraw-Hill, Inc., p. 35

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid., 43.

<sup>5</sup> Ibid., 44.

<sup>6</sup> New Gallup Poll on Death Penalty. (2003, March 12). *TalkLeft: The politics of crime*. Retrieved February 9, 2004, p. 1, from

<sup>7</sup> Barnet, S., & Bedau, H (1999). *Current issues & enduring questions: A guide to critical thinking and argument, with readings* (5 ed.). New York, NY: Bedford/St. Martin's, pp. 475-484.

<sup>8</sup> Ibid.

<sup>9</sup> Cloud, J. (2003, July 14). *Guarding death's door*. *Time*, pp. 46-49, 51-52, 54.

<sup>10</sup> Graczyk, M. (2003, September 21). *Critics claim death penalty system biased*. *The Greenville News*, p. 4A.

<sup>11</sup> Smith, W.B. (1998, September 10). *“Capital punishment: A work in progress or progress un-working?”* Retrieved February 13, 2004, p. 1 from

**The following articles are all from Prison Fellowships Website. They deal with Capital Punishment on a near Daily basis. Hope this helps.**

**The Question Is: What Is Just?**

By Chuck Colson

Do prisons deter? Do they rehabilitate? Or are offenders punished because they *deserve* it?

My first day in prison remains vivid in my memory, particularly the moment I was ushered into the office of my case-worker, the official who had my life in his hands. If this bureaucrat was intimidated to be facing the former special counsel to the president of the United States, he didn't show it.

"All right Colson," he said, leaning back in his government-issue swivel chair. "Let me tell you what this prison is about." Then he sharply slapped the back of his left hand with his right hand. "That's it," he said with a toothy grin. "Punishment."

I didn't need to be treated as a child I wanted to tell him (but didn't). Yet over the years, I've come to realize that in his simple way he expressed a profound — but often ignored — truth. And it is one that is central to the renewed debate over capital punishment.



Over these 25 years of prison ministry I've encountered every theory justifying prisons and punishment and frequently lectured on the subject. (My recent London lectures will be published in book form this fall.) Most arguments center on what works. Law-and-order conservatives, (of which I was one) contend prisons deter; liberals argue they rehabilitate. Both have contributed to the huge prison-building boom, the population doubling in the last 10 years.

But these arguments are utilitarian, that is, what best serves the social goals of society. My caseworker was making a different point: that is, an offender is punished because he *deserves* it. This is what C. S. Lewis, in his brilliant essay *The Humanitarian Theory of Punishment*, called "just deserts."

To justify punishment by whether it "deters or cures" is the triumph of sociology over justice. "Why in heaven's name am I to be sacrificed to the good of society in this way? Unless, of course, I deserve it," Lewis asked, referring to the deterrent theory. He concluded, "Take away desert and the whole morality of punishment disappears." Lewis and my caseworker cut to the heart of the matter, and their point bears directly on the issue of capital punishment.

For most of my life, both as a Christian and before, I opposed the death penalty. I worried about innocent defendants being found guilty. (As a lawyer I knew that happened.) But most importantly, I could find no deterrent. During a visit to death row in Illinois in the mid-eighties I began to have doubts about my position. John Wayne Gacy, convicted of the brutal murders of

33 men and boys, asked to see me. He spent most of our one-hour conversation insisting on his innocence, angry at the state for how he was being treated. I was struck by his unrepentant arrogance. I was struck also by how pitifully inadequate a prison sentence seemed as a punishment for such horrid crimes. Hardly heavy enough to balance Lady Justice's scales. Lewis's questions hounded me: What is the "just desert" for such heinous crimes? In time these questions — and the realization that I had been influenced by utilitarian arguments — caused me to my change my stand on capital punishment.

There are certain cases where a crime is so heinous that in order to meet the demands of justice, more than prison is required. Just desert demands the life be taken. But if society is to invoke the ultimate sanction, it must never do so lightly (and never gleefully; I am absolutely appalled at the bloodthirsty demonstrations which attend some celebrated executions). And capital punishment should be used *only* when there is *no doubt* of the defendant's guilt (the biblical test is severe, see Deut. 17:6,7), which is why I applaud the courage of public officials like Illinois Governor George Ryan, who suspended capital punishment after discovering his state's dismal record on sentencing innocent defendants to death.

The current debate should cause Christians to reexamine their positions, to be sure they're not influenced by what is socially useful or politically popular, but rather by what is *just*. And as society wrestles with this agonizing question, we need to be ready to contend for a biblically informed view, one which safeguards the innocent but recognizes there are some cases so egregious that the death penalty is the only way to balance the scales. Lewis and my caseworker had it right: At the root of justice is not sociology or therapy but — simply put — "just deserts."

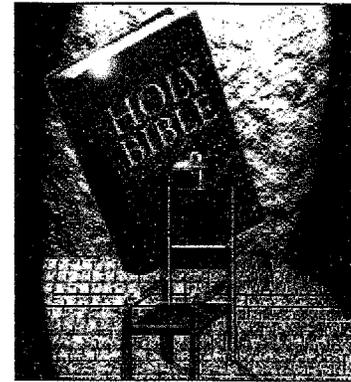
### **What's the Bible's Position on the Death Penalty?**

By Daniel W. Van Ness

Several years ago Dan Van Ness, then president of Justice Fellowship—PF's criminal justice reform subsidiary—wrote "A Call to Dialogue on Capital Punishment."

It was not meant to take sides on the death penalty, but rather explore some of the important issues raised by the various sides. This article is excerpted from Dan's monograph. Dan now works with Prison Fellowship International.

Does Scripture mandate, prohibit, or permit capital punishment? Christians are divided on this issue. Let's summarize the arguments for each position:



### **Scripture MANDATES capital punishment.**

The principal argument is that because life is sacred, those who wrongfully take another human life must lose their own lives. This is a form of restitution; a matter of justice—the state purging itself of those who shed innocent blood. Proponents of this position cite three scriptural arguments:

**ARGUMENT 1:** Genesis 9:6 says, "Whoever sheds the blood of man, by man shall his blood be shed; for in the image of God has God made man." This is part of the larger covenant that God made with Noah after the flood. It not only reflects the great value of human life, but also gives the reason for that value: Man is made in God's image.

The absolute language of Genesis 9:6 suggests that all those who kill another human being must be killed. And since this mandate was given long before the Mosaic Law to all who survived the flood, it apparently has universal application.

**ARGUMENT 2:** The Law, as given to Moses on Mt. Sinai, ordained execution for several offenses: murder (but not accidental killings), striking or cursing a parent, kidnapping, adultery, incest, bestiality, sodomy, rape of a betrothed virgin, witchcraft, incorrigible delinquency, breaking the Sabbath, blasphemy, sacrificing to false gods, oppressing the weak, and other transgressions. (See Exod. 21, 22, 35; Lev. 20 & 24; Deut. 21-24.)

**ARGUMENT 3:** While no New Testament passage expressly mandates capital punishment, several imply its appropriateness. For example, in Romans 13:1-7 Paul calls his readers to submit to the authority of civil government, reminding them that "if you do wrong, be afraid, for he [the authority] does not bear the sword for nothing." In its ultimate use, the word *sword* implies execution.

### **Scripture PROHIBITS capital punishment.**

Old Testament Law clearly calls for capital punishment. So those who believe Scripture *prohibits* capital punishment argue that the developments of the New Testament era supersede the Old Testament Law.

**ARGUMENT 1:** Israel was a theocracy, a nation ruled directly by God. Therefore, its Law was unique. Executing false teachers and those who sacrificed to false gods are examples of provisions that sprang from Israel's unique position as a nation of God called to be holy. When Israel ceased to exist as a nation, its Law was nullified.

Even the execution of murderers stemmed, in part, from God's special relationship to Israel. Numbers 35:33 says that the blood of a murder victim "pollutes the land," a pollution that must be cleansed by the death of the murderer. If the murderer could not be found, an animal was to be sacrificed to God to purge the community of guilt (Deut. 21).

**ARGUMENT 2:** Christ's death on the cross ended the requirement for blood recompense and blood sacrifice. The sacrifice of Jesus, the Lamb of God, replaced the sacrifice of animals. His death also made it unnecessary to execute murderers to maintain human dignity and value because the crucifixion forever established human value. Hebrews 9:14 says, "How much more, then, will the blood of Christ, who through the eternal Spirit offered himself unblemished to God, cleanse our consciences from acts that lead to death, so that we may serve the living God!"

**ARGUMENT 3:** Christ's teaching emphasizes forgiveness and willingness to suffer evil rather than resist it by force. This may not be definitive on the issue of the state's authority to execute, but it does demonstrate a different approach to responding to evil than that established on Mt. Sinai. Christ's example in not demanding death for the adulteress supports this argument (John 8).

**Scripture PERMITS capital punishment.**

Those who argue that the Bible permits capital punishment see strengths in both the *pro* and the *con* arguments, but disagree with the conclusions of both.

**ARGUMENT 1:** As noted previously, Scripture includes many provisions for capital punishment. The Mosaic Law significantly limited the scope of Genesis 9:6. For example, individuals guilty of manslaughter or accidentally causing another's death were exempted from the death penalty.

**ARGUMENT 2:** Perhaps the most compelling arguments against capital punishment are the examples of capital criminals who were not executed, such as Cain, Moses, and David. And not only did Jesus refuse to condemn the woman caught in adultery, but He also suggested that only those without sin were qualified to perform the execution.

Jewish interpretation of Old Testament Law reflected a great reluctance to impose the death penalty. For example, circumstantial evidence wasn't admitted. The two eyewitnesses (Num. 35) had to have warned the accused he was about to commit a capital crime. If the two witnesses' testimonies differed, the accused was acquitted. Men presumed to lack compassion could not rule on a capital case.

**ARGUMENT 3:** New Testament passages assume the existence of the death penalty but don't take a position one way or the other. Romans 13 comes closest to speaking of the state's authority to execute, but significantly it refers to the state's *authority*, not *obligation*, to execute. This is consistent with the position that states are permitted, not mandated or prohibited, the use of this sanction.

**Under what CONDITIONS?**

Those who believe that Scripture mandates or permits capital punishment must move on to another question: What conditions does Scripture give before the state may exercise capital punishment?

The Old Testament Law did not simply address the "whether" of capital punishment; it also spoke of the "how." These provisions need not be literally carried out today for our death-penalty

statutes to meet biblical standards. For example, Deuteronomy 17 required the condemning witnesses to throw the first stones. This is impossible today, because stoning is not a current method of execution. However, the principle is that witnesses were held *responsible* for the consequences of their testimony, encouraging truthfulness. Here are some other principles drawn from the Mosaic Law's procedures:

**PROPORTIONALITY.** Exodus 21:23-25 establishes that punishment must be proportional to the offense. The extreme sanction of death should be considered only in the most serious offenses.

**CERTAINTY OF GUILT.** Before a murderer could be executed, two witnesses had to confirm his guilt (Deut. 17:6; Num. 35:30). This was a very high standard of proof. The Bible says nothing of circumstantial evidence.

**INTENT.** Numbers 35:22-24 established that capital punishment could not be imposed when the offender did not act intentionally.

**DUE PROCESS.** Several provisions of the Law ensured that executions took place only after appropriate judicial procedures (see Num. 35; Deut. 17). The issue was not simply whether the accused was guilty, but whether he also had a fair chance to prove his innocence.

**RELUCTANCE TO EXECUTE.** Although the Law may sound bloodthirsty, it was applied with great restraint. In Ezekiel 33:11 God laments, "As sure as I live . . . I take no pleasure in the death of the wicked, but rather that they turn from their ways and live." The Lawgiver Himself was reluctant to impose the death penalty, preferring that the wrongdoers repent.

Reluctance is *not* refusal. But it does imply that execution should be a last resort, and, as Ezekiel 33 suggests, repentance or contrition could commute the death sentence.

**This Article Puts A face on those who will be executed. This is their story:**

### **Matters of Death...and Life**

By Becky Beane

#### **Many Death-Row Prisoners Still Have Something to Give**

When a maximum security correctional center was slated to be built right outside Potosi, Missouri, a modest little town south of St. Louis, "we *wanted* the prison—for the jobs," says Kris Richards, former president of the local chamber of commerce. Since Potosi Correctional Center opened in 1989, more than 40 executions

have taken place there; about 80 of its current 800 prisoners await death by lethal injection.

But the proximity of death row seems to cause little stir among the town's 2,600 residents. The prisoners are shut up in a secluded and highly secured complex two miles away from the main traffic district. "We never see them," Richards recently told the *Kansas City Star*. "It makes executions an anonymous thing."



### Something Personal

You have to go *inside* the prison to see the faces of the death-row inmates . . . to put them with names.

Names like Randy Knese, who sometimes spends hours a week in the prison infirmary so terminal patients don't have to die alone. Or Dennis Skillicorn, who participates in an in-prison 4-H Club with his 10-year-old stepson. Or William Weaver, who tries to prevent troubled kids from ending up where *he* ended up.

All were convicted of first-degree murder; all sentenced to die. All are now paying the price for reprehensible actions that left people dead and families in torment. And all, as William puts it, are now "trying to do productive things. Because if that hour comes and you're going to be executed, at least you have done something to say, 'I tried to make a difference.' "

These are men who still have connections to loved ones; who still long to do something worthwhile with their lives—in an unusual prison setting that *values* giving them that opportunity.

When William went to prison in 1988, death row was located at Jefferson City Correctional Center—segregated lines of cells that confined the prisoners 22 hours a day, with two one-hour slots for limited recreation and their prescribed three-minute shower. To talk to one another in their cells, the men yelled into the hallway—maybe mentioning a basketball game, some legal issue . . . nothing very personal. "We went stir crazy," says William. Tempers flared.

But after death row was moved to Potosi, it ceased to be a row at all. Although the staff still isolates dangerous prisoners, most of the "CPs"—those sentenced to capital punishment—now mingle with the general population of felons and can qualify to participate in several productive programs. While some might denounce such change as "coddling prisoners," those closest to the prison—the staff and inmates—simply call it common sense. "Keeping us caged is what had so many people angry and hostile," says William. Here there's less violence, more respect, more transformation.

"We can't do anything to fix what we've done," William recognizes. "But we can make a change."

William helped launch the Youth Enlightening Program (YEP) to convince at-risk youth that "crime does *not* pay." Periodically, YEP inmates—carefully screened, selected, and trained—

host groups of kids referred by school administrators, judges, probation officers, and others. At first the designated "tough guys" start out with a "get-in-your-face" confrontation to grab the kids' attention and establish control. But the rest of the day—through testimony and small-group discussion—the inmates reveal their personal descents into drugs and crime, expose the harsh realities of prison life, and challenge their young listeners to ponder where *they* will likely end up unless they make a deliberate turn-about in attitude and behavior.

Besides kids, William reaches out to his fellow prisoners: tutoring some of them for their GED tests, teaching piano and guitar lessons, or doing legal research in the prison's law library. He also helps restore bicycles to give to needy children.

"I never forget why I'm here," says William, now 38 and in his twelfth year of prison. "But I'd like people to know there's more to me than the crime that put me here."

### **Drugs and Destruction**

It's said that the eyes are the window of the soul, and Randy Knese's peaceful blue eyes of today contrast sharply with his wild-eyed prison mug shot of three years ago. Back then he was a cocaine addict—"no, I *am* an addict," he corrects himself, though he's been drug-free since his imprisonment. For he knows that apart from Christ, he'd be as powerless against the lure of drugs as he was before. Alcohol and marijuana caught his attention in high school. In college—and away from parental restrictions—he partied his way into LSD, speed, and finally the coke. Kicked out of school, for a while he "lived like a bum" on the streets—until he went home to work with his dad's printing business, and even got married. "But I just didn't want to give up that party life," he now says with regret.

After his wife, Lauren, got pregnant, he "cleaned up for a few months." And when he held his newborn son for the first time, "I really wanted to be a good dad," he recalls. But he couldn't stay off the drugs, domestic conflicts erupted, and one night during a violent fight with his wife, a cocaine-crazed Randy killed her.

When he realized the vileness of what he had done, "I was ready to kill myself," he says. "If I had gone out on bond, I wouldn't be alive today." Instead, he was confined in the local jail, where in the middle of a graffiti-covered wall someone had scribbled a Bible verse—and Randy started to read about God. As he pored over the Scriptures, he came to understand that Jesus was his "way out"—not necessarily out of his physical prison, but assuredly out of his spiritual one.

In the summer of 1997, at age 30, Randy received a sentence of death for first-degree murder. "In the beginning, it was scary," he says. But now, "I'm not worried about being executed; I know I'll go home to Jesus." Those nights that he lies sleeplessly in his prison bunk, "I'm thinking about the people I hurt, how I destroyed *their* lives. I pray for them every day."

At the time of Randy's arrest, his son, Kevin \*, was barely a month old. Randy hasn't seen him since; Kevin, now four, doesn't even know that Randy exists. Lauren's parents have custody, although they let Kevin's other set of grandparents—Randy's mom and dad—spend a generous amount of time with him, so long as they never take him to visit or tell him about Randy.

"That hurts, but I blew that," he says. "If I had really wanted to be his dad, I wouldn't have been doing cocaine. I wouldn't have allowed this tragedy to happen. So I won't get into his life until he wants to know. But I pray that one day God will make his heart want to know me."

Until that day, Randy's mom sends him photos. She tells him how smart and happy Kevin is; how he's starting to play T-ball, and learning about Jesus. "I'm elated about that!" Randy says with a grin. For it's Jesus who has transformed his own life, enabling him "to get up every day and say, 'I'm worth something. I can help somebody today. I can *be* somebody today.'" Two years ago he started serving as a hospice volunteer, helping other inmates face their own unique journeys toward death.

And while Randy can't have contact with his own son, he, too, works with YEP, helping other children find a positive life purpose. "I realize what drugs did to *my* life. And if I'm going to be executed, if I've helped save one life, then I'm still living in that kid."

### **A New Role Model**

"I love you" is something many prison dads also long to say—and demonstrate—to their children, particularly when the inmates know they will likely never go home again. Typical prison visits, however, don't allow much opportunity for deep bonding and affection. At Potosi, inmates and their families sit at small tables with a list of rules taped to the top. The kids have few games to play with; parent and child battle the distracting din of all the other conversations in the room.

Then earlier this year, to help enhance family bonding, the prison administration agreed to "host" a monthly 4-H Club for selected dads and their children. While they have to forgo the popular animal husbandry aspect of the club, they still enjoy a variety of crafts, music, and activities to enhance communication.

"There are some who don't think it's right to give convicts these things," says death-row inmate Dennis Skillicorn, who participates in the club with his stepson Regi. "But they're missing the picture: This isn't about the convicts; it's about the kids!"

"Anything that helps these men become positive role models for their kids is worthwhile," adds Dennis's wife, Paula. The club helps the dads teach their children "that people can in-deed turn their lives around, and that they are not doomed to follow in their parents' footsteps."

Dennis's life demonstrates how dramatic a turnaround some men can make with the forgiveness and power of Jesus. A "career criminal" since his youth, he's spent about 20 of his last 24 years in confinement. "Pretty much all my criminal activity has had a foundation in drug use," he explains. His mom died when he was nine, and while his dad worked, "my brother and I had a lot of free time to do what we wanted." He started with pills he found in the medicine cabinet, moved on to glue-sniffing, marijuana, "uppers," "downers" . . . "I can't think of a drug I haven't tried," he admits. He started stealing to support his habit—and to enhance the defiant "high" the drugs aroused.

In 1992, released after a 13-year prison stint, "I hadn't been out in society for a long time. I didn't know how to deal with my problems"—except through drugs. But he checked into a Salvation Army treatment program, which helped him stay drug-free for five months—"the longest I'd ever been sober since I was a *kid!*" The workers also "showed me the reality of God's love." But although Dennis heard the Gospel, "I just couldn't see that God could forgive me," he says.

In 1994, again consumed by drugs, Dennis joined up with two other men in a multistate crime spree that included burglary, kidnapping, armed robbery, and murder. By the time he was arrested, "I was tired of running, tired of hiding, tired of hurting people."

In jail, devouring the words of the Bible, Dennis learned in John 14 that God would send a "comforter." Dennis confessed his sin, acknowledged Christ as his much-needed Savior, and experienced a peace that had eluded him so many years. That peace sustained him to hear his sentence: Although Dennis and the triggerman both claimed Dennis had nothing to do with the shooting, both were sentenced to death.

Dennis and Paula married nearly three years ago—since he has been on death row. They met when Paula, then an award-winning reporter with the *Kansas City Star*, interviewed him for a story. A staunch atheist at the time, "I had never before seen such true joy in anyone's face when they talked about God," she recalls. Over time, his redeemed life and convictions drew her into two covenants: with Christ and with Dennis.

Although pursuing appeals, "I've submitted to the fact that I am going to be executed," Dennis says calmly. He opposes the death penalty for a number of social, practical, and spiritual reasons. But whatever happens to him, however much time he has left, he plans to spend it in ministry. He, too, serves as a hospice volunteer, because "anger, hate, unforgiveness . . . all that stuff goes out the window when you are giving," he claims.

"There is a mission field right here," adds Dennis, now 40. "There are guys I believe I can reach that other people couldn't."

### **Facing the End**

Downstairs in the prison, Chaplain Powell points out a gray door, marked simply AO-008. Locked most of the time, 48 hours before an execution it opens to the condemned prisoner to provide a few final "perks." Here he has a TV and a VCR. Here he eats his last meal—anything he wants from a local restaurant's menu. And here he can share longer, though guarded, visits with his family—as well as a spiritual adviser, if he wants one. Chaplain Powell likes to get other clergy involved as advisers at the end. "It's hard on me, if I've spent a lot of time with the inmates before," he admits. These are *friends* he's losing. And often the prisoners prefer that he focus on ministering to their families.

Nearby sits the execution room. When not in use, the room is shrouded by venetian blinds. When it's *in* use, the blinds on three walls open up to small bleachers of witnesses in the hallways—prisoner's family on one side, victims' families on another, and state's witnesses on another. After the pronouncement of death by lethal injection, they're all quickly "whisked away," says the chaplain—to avoid contact with one another.

Then the fresh grief of the prisoner's family and friends joins the persisting grief of the victims' loved ones. Throughout the prison, where all the inmates have been confined to their cells, the mood is "tense, reserved, somber," says Randy Knese. For some, any execution seems to put them a step closer to their own. For others, says Randy, "we lost a family member, too."

But for most of the world outside, it's just another "anonymous" execution. How little they know.

*\*Starred names have been changed to protect privacy.*

## **Capital Corruption: The Trial of Jesus**

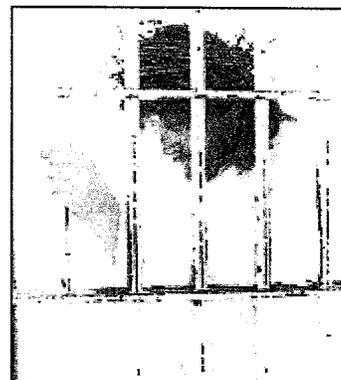
By Jeff Peck

The Christian faith finds one of its supremely divine moments in a capital trial gone wrong

The use and misuse of capital punishment has a long history. Ironically, the Christian faith finds one of its supremely divine moments in a capital trial gone wrong. Jesus' death on the cross was not only foretold, but also necessary for the forgiveness of sins. The innocent Christ would be put to death unjustly, yet through the mystery of salvation, that punishment would become just when He accepted the sins of the world on His own body.

As Christians address the issue of the death penalty, they have a pivotal case to inform their thinking. There could be only one innocent Christ to die for sins, but preventing the death of other innocent people wrongly accused was of paramount importance to Jews of Jesus' day, as it should be to people today. John MacArthur's commentary on Matthew (from his New Testament Commentary series) provides a revealing look at the betrayal of due process.

When the Great Sanhedrin gathered the night of Jesus' trial, they should have followed specific judicial procedures to ensure fairness, objectivity, and a high respect for life. Instead, a prideful agenda replaced any pretense of a fair hearing. The first problem was the "jury" itself. Sanhedrin members were to be chosen for their track record of wisdom and leadership. (By Christ's time, it had become a system of political favoritism.) What's more, Mosaic Law guaranteed the accused a right to a public trial, to defense counsel, and conviction only on the testimony of at least two reliable witnesses. Witnesses found perjuring themselves received the same punishment as the accused — in a capital case that meant death. Rabbinical law also required a three-day waiting period before the sentence could be carried out. Members of the jury had to fast until the third day. This provided additional time for evidence to be brought forth and for jury members to reconsider their decisions. The system was weighted toward the defendant in that members could change their guilty verdicts to acquittals, but not the reverse.



In his book *Testimony of the Evangelists*, Simon Greenleaf cites the lawyer Joseph Salvador, who has researched proper Sanhedrin trial procedure. Salvador indicates that a defendant was protected against self-incrimination because his confession was not sufficient in itself for conviction. The Sanhedrin could not initiate charges but only consider charges brought before it by an outside party. No trial could be held at night, and capital trials had to be held in the temple. The property of an executed criminal could not be confiscated and must be passed on to heirs. A unanimous decision for death set the defendant free because it was presumed the slightest bit of mercy was lacking.

Those condemning Christ proceeded to violate every safeguard of their own system. A night trial in private quarters with lying witnesses, no charges, and no waiting period did not interfere with the already decided outcome. Surely many lessons could be lifted from the trial of Jesus, but one thing is glaringly obvious: Imperfect systems - especially corrupt ones — should not be allowed to operate out of sight of constant and rigorous scrutiny. Life is too precious for politics.

**The Following is the Story of how one family dealt with the murder of their daughter and how one woman dealt with a brutal rape. Both had to deal with the capture and punishment of the men who killed or raped them.**

## **Left Behind**

By Becky Beane

Survivors of Capital Crimes Don't Want the Victims to be Forgotten

When the state of South Carolina executed convicted murderer Larry Gene Bell in 1996, Hilda and Bob Smith sat alone in their living room watching the news on TV. "We prayed for him," Bob says of the man who had abducted and killed their teenage daughter 11 years earlier. "And I felt sympathy for his parents, because he was their child. But there was no closure when they executed him. It couldn't bring Shari back."

What touched the Smiths as they watched the news coverage was the sight of their daughter's friends gathered outside the prison gates. Not protesting for or against the death penalty, but simply holding lighted candles in Shari's memory. "That meant so much to us," Hilda says softly. "We just want Shari to be remembered, you know?"

## **Vanished**

Bob brings out Shari's senior picture, taken just months before the high-schooler's premature death at 17—and locking into memory forever the laughing eyes and radiant smile that so perfectly reflected



her chipper, lively spirit. "She was voted the 'wittiest' in her senior class," says Hilda. Also the "most talented," adds Bob. "She had a gorgeous voice." Hilda adds her own superlative to the mix: "a most loving child."

A break in Shari's loving routine is what tipped Bob off that something might be wrong on that last day of May in 1985. In his home office on the rural outskirts of Columbia, South Carolina, Bob glanced briefly out the window and noticed Shari just pulling up to their 750-foot tree-lined driveway. A few minutes later he realized she hadn't come in yet. "She always came and gave her Daddy a big hug," Bob explains. "She was the most affectionate little thing in the world!" He looked out the window again to see her car still by the roadside mailbox: motor running, driver's door open . . . and Shari nowhere in sight. "At first I thought she had just run across the street into the woods," recalls Bob, because Shari — with a rare form of diabetes — sometimes downed large amounts of water and then quickly had to find relief. But when he went up to look for her and couldn't find her, Bob trembled with dread.

Forty-two minutes later, police officers sat in the Smith's living room, suggesting that Shari — like so many other vanished teens — had simply run away from home. But her parents dismissed that notion at once. "I'm her Mama," Hilda insisted. "I *know* my child!" And so a parent's worst nightmare began in a community where they had expected to "bring up the children in fresh air and safety."

What should have been a festive high-school graduation party turned into a grim search party, pulling in hundreds of volunteers and local, state, and federal law enforcement. The kidnapper called the terrified Smiths several times — never asking for ransom, just coldly teasing with details about Shari's clothing to prove he really had her. Then came Shari's letter, a handwritten "last will and testament" filled with love and courage. "I'll be with my Father now," she consoled her family. "Please do not become hard or upset. Everything works out for the good for those that love the Lord." Romans 8:28 — the same verse Bob and Hilda immediately claimed when they realized Shari was missing. But on June 5 they received the call that gave directions to a spot 16 miles away, where the killer had left her body. And they admit they challenged God's goodness.

### **Losing Control**

Shari's abduction hurtled the Smiths into an unplumbed well of loss — not just the horrible helplessness. "For the first time in my life as the father and protector of my household, I was not in charge of my home," says Bob. For 28 days — from Shari's disappearance until Bell's capture — police officers and FBI agents took over the Smiths' house and yard: coordinating the manhunt, tapping phone calls, escorting Hilda to the grocery store or son Robert to a basketball game.

"The police were great," Bob stresses. Still, he adds, "for 28 days we lived in fear." Bell's ripping out a part of their family left a searing wound in Hilda's soul. "I prayed to die," she confesses. "The pain was so bad, I just couldn't live with it. I pleaded with the Lord, 'I know I'm going to be with *You*, so please, please, please let me die!' " But it was forgiveness, not death, that opened the blocked portals to healing.

After Bell was arrested, officers brought in Hilda and older daughter Dawn to confront him — hoping to elicit a spontaneous confession. "I prayed about going," recalls Hilda. "Inside I was screaming as hard as I could, trying to get the pain out, the pain of losing my daughter. And I said, 'God, I can't hate this man; there's no more room in my heart for more pain!' And God took the hate away." When Hilda met Bell at the jail, "she forgave him to his face," says Bob, still amazed at his wife's strength and mercy. It took Bob another seven months to reach his own point of forgiveness. At the urging of a friend, he went behind a secluded barn "and just blasted out," he describes. "I was really, really mad, and I wanted to scream and holler at God. My friend said, 'Go ahead. He can take it.' And it was such a relief to do that physical thing and get all those emotions out." Once he let them out, he was able to let them go. Bob's forgiveness of Bell dovetailed with his forgiveness of *himself*. "I was supposed to *take care* of my children, and in my mind I had failed," he explains. "Maybe I needed to forgive myself before I could forgive him. It happened almost at the same time."

But forgiveness didn't instantly abolish the pain — particularly when recurring media coverage and court proceedings forced Bob and Hilda to relive the events and exposed discrepancies in treatment. "The trial is a cruel, cruel thing to the victims, because the criminal has all the rights," Bob accuses. Because of excessive publicity in Columbia, the trial took place 100 miles away in Moncks Corner, where the Smiths had to spend two weeks in an "awful" motel room detached from familiar surroundings and supportive friends. During Bob's testimony, the judge and defense attorney often curtly cut him off in mid-answer. "They reprimanded me: 'You can't say that!' And I'm thinking, *But what did I do?* I'd just lost my daughter, and I felt like I was on trial! I couldn't tell the whole truth as I knew it." Again, he felt helpless — "like I was a nobody." After the jury convicted Bell, "we were rushed out to the police car, and I just cried and cried," Hilda remembers. "They said it was all over, but Shari wasn't coming back. And I still wanted Shari back."

Through 11 years of appeals and since the execution, the Smiths have resisted efforts to get them involved in either championing or opposing the death penalty. "I won't give an opinion," Bob says emphatically — "other than to say that it doesn't bring closure" — something victims often long for and death-penalty proponents often promise. What the whole tragedy *has* brought them is compassion for and connection with other victims of violence, particularly parents who have lost children.

A few years after Shari's much-publicized homicide, Bob — who serves as chaplain for the local sheriff's department — accompanied officers to notify another couple about their daughter's murder. Distressed by the news, the parents wanted nothing to do with the messengers — until Bob reintroduced himself, not as a chaplain but as "Shari Smith's daddy." Instantly the other father wrapped his brawny arms around the one man in the room who could truly understand the agony he was feeling. "He crushed me like a bear," recalls Bob, tears clouding his eyes. "The mother did also. God had me there for that reason; there was an immediate bond." Hilda, too, has responded to the need to minister to grieving families. "It's a tough assignment," she admits, "but it's one I can't say no to, because I have been there." Unaccustomed to the limelight, Hilda has accepted several invitations to speak to women's groups and church audiences about her spiritual journey. She is currently writing a book called *The Rose of Shari*. The Smiths also serve on the advisory board of the South Carolina chapter of Neighbors Who Care (NWC), Prison

Fellowship's ministry to crime victims. "When this happened to us, *we* had neighbors who cared," says Hilda. "But there are so many people who don't have a church family. And we need this organization to give them the support and help they need."

### **Interrupted Summer**

In April the Smiths participated in a Neighbors Who Care banquet in Columbia, featuring guest speaker Debbie Morris. For years, Debbie was widely known only as the unnamed "16-year-old from Madisonville, Louisiana," who had been kidnapped and repeatedly raped by Robert Lee Willie and Joseph Vaccaro during a summer weekend in 1980. Another woman immortalized the crime: Sister Helen Prejean, author of *Dead Man Walking*, who offered spiritual guidance to Willie before his execution. Prejean's book became an Academy Award-winning film, though the offenders' names and some facts were changed to heighten the theatrical value.

Then in 1998 Debbie wrote her own book, *Forgiving the Dead Man Walking*, giving a victim's gripping perspective of pain and pardon missing from Prejean's account. Today Debbie shares her story with various audiences. Debbie explains, "If someone had said to me, 'You are precious in God's sight; He has not forsaken you,' that could have made a big difference for me." Instead, the trauma of the crime turned a vivacious honor student, cheerleader, and committed Christian into a depressed, embittered dropout and alcoholic who cut herself off from God.

At the beginning of her crisis, Debbie tenaciously retained control. Immediately after the two assailants abducted her and her boyfriend, Mark, "I vowed I would remember every single detail of what happened to me," she explains. "Already I was thinking about revenge — I wanted these two men to *pay* for what they did." Eventually they let Debbie go; they dragged Mark into the woods and stabbed, burned, and shot the 20-year-old before leaving him for dead. Debbie's acute attention to detail enabled the police to find Mark — who amazingly survived the assault — and to capture Willie and Vaccaro. Police also connected the two men with the brutal murder of another young woman, Faith Hathaway.

"I remember thinking, *Finally this is over*," shares Debbie. But then she realized that she would be a key witness at trial—having to face her rapists again in the courtroom. While news reporters, police officers, and the district attorney praised her as brave and strong, Debbie mostly "wanted to crawl under a rock somewhere and hide because I was surrounded by pain." One newspaper columnist predicted that it was her testimony that "was going to put Robert Lee Willie in the [electric] chair," Debbie recalls. "And that's a huge burden for a 16-year-old girl." Rather than feeling brave, "I felt terrified," she adds. "I felt ashamed of what had happened to me" — and appalled that friends and family might think of her rape whenever they looked at her. But during the trial she mustered the courage to testify — and as she did so, the reality that she could help send a man to death "really began sinking in. But I was so full of hate, that was OK."

Not knowing how to release her rage or shame in a healthy way, Debbie ambushed herself. Turning away from the Christ she had known as Savior for two years, she grabbed onto alcohol to try to ease the inner turmoil. "It was like I was trying to finish off what Robert Lee Willie and Joseph Vaccaro started," she explains. A few times "I was able to pull my life back together" —

enough to get her GED and go on to college. "But anger was seeping into every aspect of my life."

### **Approaching Death**

In 1984, during her first year at Louisiana State University, Debbie learned that Willie's execution date had been set for December 28. "I kept thinking I should feel happy or excited," she says. "But all I wanted was to get on with my life; I wanted my life to be like it was before. And finally I needed to accept that life was never going to be the way it was before." As the date approached, "I began to feel sick about it" — a feeling she kept to herself. "Most people were saying the only thing wrong with this execution was that it wasn't going to cause Robert Lee Willie as much pain as he had caused his victims. But I just wanted the pain to be over."

The night before the execution, Debbie finally realized that even Willie's death would not end the debilitating torment — that her ability to "move on" was tied to something beyond her offender's punishment. "God was saying to me, 'You've got to deal with your *hate*.' " So after years of ignoring God, "I turned back to Him that night. And I prayed that God would take away this burden of hate and anger I'd been carrying. I even prayed for Robert Lee Willie; I prayed that his execution would be fast and painless if that's what God chose to do."

Having taken that first step of forgiveness, she finally slept. The next morning, learning that Willie's electrocution had occurred just after midnight, "I felt numb," Debbie describes. "There was no joy in it. But I'd be lying if I didn't say there was a little bit of relief." After she'd testified against him, Willie had threatened to retaliate. "For the first time in four and a half years, I would be able to go to sleep knowing I would never have to see that man's face again."

But Debbie was wrong: Willie's face still invaded her dreams. She still battled anger and resentment — directed toward God. She needed to forgive Him, too. "Not because He had done anything wrong," she points out, but because she needed a way to release the resentment that had built up from years of accusing God for abandoning her, for not protecting her from the abduction and rape. She finally realized He had never left her at all, but had uniquely equipped her to *survive* what she had been through.

Debbie talks openly about the crime and its aftermath "because I think it's so important to understand the kinds of evils and the kinds of pain that Jesus can heal," she says. For many years, "I wanted to put all of this behind me. But now it's very clear that God's message to me is that I'm not meant to put this behind me; I'm to use this in my life, whether it's to bring comfort to others or to glorify Him publicly."

The story of her life, Debbie summarizes, is a story of God's grace. While her assailants' crimes certainly warranted punishment, she believes, "justice didn't heal me. *Forgiveness* did." She has another reason for sharing publicly. "As long as I have the chance to speak to audiences, I will continue to talk about [murder victim] Faith Hathaway," says Debbie. "I think that her parents' worst fear is that Faith would be forgotten."

In the audience, Bob and Hilda Smith nod knowingly. For those left behind, memory is the enduring connection to their loved ones. "People think you don't want to be reminded of the person," says Hilda. "But that's not true. The fact that you still remember, that means the world to us."

## **Capital Punishment: A Personal Statement**

By Chuck Colson

Chuck Colson's spiritual pilgrimage reaches yet another point of significant change

As we Christians grow and cultivate the disciplines of reading and study, we sometimes alter our views. Sometimes these views even change dramatically. No one knows this better than I, having been dramatically converted to Christ and, subsequently, having my entire worldview turned upside-down.

There was a time, for example, when I thought John Locke's understanding of social contract was the ultimate theory of government. I now see that government draws its authority less from the consent of the governed than from a sovereign God. I have come to another of those points in my spiritual pilgrimage in which my views have undergone significant change. I owe it to those who have followed my work and to the constituency of Prison Fellowship to give the reasons.



For as long as I can remember, I have opposed capital punishment. As a lawyer I observed how flawed the legal system is, and I concluded, as Justice Learned Hand once remarked, that it was better that a hundred guilty men go free than one innocent man be executed. I was also influenced by very libertarian views of government; I distrusted government too much to give power to take a human life to the judicial system.

Then as I became a Christian, I was confronted with the reality of Jesus' payment of the debt of human sin. I discovered that the operation of God's marvelous grace in our lives has profound implications for the way we live. Naturally, as I came to deal increasingly with ethical issues, I found myself seriously questioning whether the death penalty was an effective deterrent. My views were very much influenced by Deuteronomy 17 and the need for two eye-witnesses. I questioned whether the circumstantial evidence on which most are sentenced today in fact measures up to this standard of proof.

I still have grave reservations about the way in which capital punishment is administered in the U.S., and I still do question whether it is a deterrent. (In fact, I remain convinced it is not a general deterrent.) But I must say that my views have changed and that I now favor capital punishment, at least in principle, but only in extreme cases when no other punishment can satisfy the demands of justice.

The reason for this is quite simple. Justice in God's eyes requires that the response to an offense - whether against God or against humanity - be proportionate. The *lex talionis*, the "law of the talion," served as a restraint, a limitation, that punishment would be no greater than the crime. Yet, implied therein is a standard that the punishment should be at least as great as the crime.

One frequently finds among Christians the belief that Jesus' so-called "love-ethic" sets aside the "law of of the talion." To the contrary, Jesus affirms the divine basis of Old Testament ethics. Nowhere does Jesus set aside the requirements of civil law. Furthermore, it leads to a perversion of legal justice to confuse the sphere of private relations with that of civil law. While the thief on the cross found pardon in the sight of God ("Today you will be with me in Paradise"), that pardon did not extend to eliminating the consequences of his crime ("We are being justly punished, for we are receiving what we deserve for our deeds").

[1] What about mercy? someone is inclined to ask. My response is simple. There can be no mercy where justice is not satisfied. Justice entails receiving what we in fact deserve; we did in fact know better. Mercy is not receiving what we in truth deserve. To be punished, however severely, because we indeed *deserve* it, as C.S. Lewis observed, is to be treated with dignity as human beings created in the image of God. Conversely, to abandon the criteria of righteous and just punishment, as Lewis also pointed out, is to abandon *all* criteria for punishment.

[2] Indeed, I am coming to see that mercy extended to offenders whose guilt is certain yet simply ignored creates a moral travesty which, over time, helps pave the way for collapse of the entire social order.[3] This is essentially the argument of Romans 13. Romans 12 concludes with an apostolic proscription of personal retribution, yet St. Paul immediately follows this with a divinely instituted prescription for punishing moral evil.

It is for eminently social reasons that "the authorities" are to wield the sword, the *ius gladii*: due to human depravity and the need for moral-social order the civil magistrate punishes criminal behavior. The implication of Romans 13 is that by *not* punishing moral evil the authorities are not performing their God-appointed responsibility in society. Paul's teaching in Romans 13 squares with his personal experience. Testifying before Festus, the Apostle certifies: "If...I am guilty of doing anything deserving death, I do not refuse to die."

[4] Perhaps the emotional event that pushed me over the (philosophical) edge was the John Wayne Gacy case some years ago. I visited him on death row. During our hour-long conversation he was totally unrepentant; in fact, he was arrogant. He insisted that he was a Christian, that he believed in Christ, yet he showed not a hint of remorse. The testimony in the trial, of course, was overwhelming. I don't think anybody could possibly believe that he did not commit those crimes, and the crimes were unspeakably barbaric.

What I realized in the days prior to Gacy's execution was that there was simply no other appropriate response than execution if justice was to be served. There are some cases like this - the Oklahoma bombing a case in point - when no other response is appropriate, no other punishment sufficient for the deliberate savagery of the crime.

The issue in my mind boils down ultimately to just deserts. Indeed, just punishment is a thread running throughout the whole of biblical revelation. Moreover, there is divinely instituted tension that exists between mercy and justice - a tension that, ethically speaking, may *not* be eradicated. Mercy without justice makes a mockery of the sacrifice of the Lamb of God. It ignores the fundamental truth of biblical anthropology: the soul that sins must die; sin incurs a debt that must be paid.

Punitive dealings provide a necessary atonement and restore the moral balance that has been disturbed by sin. Purification, one of the most central of biblical themes, reveals to us both the temporal and eternal perspectives on mankind. Purification comes by way of suffering; it prepares the individual to meet His Maker.

God's redemptive response to the sin dilemma did not - and does not - eradicate the need to bear the consequences of our actions. Which leads me to a second observation. The death penalty ultimately confronts us with the issue of moral accountability in the present life. Contemporary society seems totally unwilling to assign moral responsibility to anyone. Everything imaginable is due to a dysfunctional family or to having had our knuckles rapped while we were in grade-school. Ours is a day in which "abuse excuses" have proliferated beyond our wildest dreams.

We really *have* reached a point where the Menendez brothers plead for mercy - and *get it!* - because they are orphans, after acknowledging that they made themselves orphans by killing their parents. Non-Christians and Christians alike are not absolved from the consequences of their behavior. Whether or not faith is professed, penalties for everything from speeding to strangulation apply to all. In American society today, people are literally getting away with murder, and the moral stupor that has descended over our culture reflects a decay, an utter erosion, of time-tested moral norms - norms that have guarded generation after generation.

Can anyone really wonder why evidence of a moral dry-rot is everywhere? I come to this view with something of a heavy heart, as some of the most blessed brothers I've known in my Christian walk were on death row. I think of Richard Moore in particular and, of course, Rusty Woomer, about whom I've written in *The Body*. I think of Bob Williams in Nebraska and Johnny Cockrum in Texas. I have a heavy heart as well because I do not believe the system administers criminal justice fairly. It is merely symbolic justice to execute twenty-five people a year when 2,000 are sentenced. (Obviously, the system needs to be thoroughly revamped.

Nevertheless, revamping the system, in order that punishment be both *swift and proportionate*, would accord with biblical guidelines and demands the Christian's engagement.) But in spite of the flaws of the system, I have come to believe that God in fact requires capital justice, at least in the case of premeditated murder where there is no doubt of the offender's guilt.

This is, after all, *the one* crime in the Bible for which no restitution was possible.<sup>[5]</sup> Lest we believe the Old Testament was characterized by indiscriminate capital justice, Old Testament law painstakingly distinguished between premeditated murder and involuntary manslaughter; hence, the function of the cities of refuge. Israel's elders, we can be assured, would have adjudicated well at the gate.

In the case of involuntary manslaughter, deliverance out of the hand of the avenger occurred. In the case of murder, the convicted criminal was put to death. Personally, I still doubt that the death penalty is a general deterrent - and strong evidence exists that it is not likely to be a deterrent when it is so seldom invoked. But I have a hard time escaping the attitude of the biblical writers, that judgment - both temporal and eschatological - is a *certain* reality for those who disobey or reject God's authority.

We'll never know how many potential murderers are deterred by the threat of a death penalty, just as we will never know how many lives may be saved by it. But at the bare minimum, it may deter a convict sentenced to life from killing a prison guard or another convict. (In such a case no other punishment is appropriate because all lesser punishments have been exhausted.) And it will certainly prevent a convicted murderer from murdering again. In this regard, I find wisdom in the words of John Stuart Mill:

*As for what is called the failure of death punishment, who is able to judge of that? We partly know who those are whom it has not deterred; but who is there who knows whom it has deterred, or how many human beings it has saved who would have lived to be murderers if that awful association had not been thrown round the idea of murder from their earliest infancy?*<sup>[6]</sup>

So in spite of my misgivings, I've come to see capital punishment as an essential element of justice. On the whole, the full range of biblical data weighs in its favor. Society should not execute capital offenders merely for the sake of revenge, rather to balance the scales of moral justice which have been disturbed. The death penalty is warranted and should be implemented *only* in those cases where evidence is certain, in accordance with the biblical standard and where no other punishment can satisfy the demands of justice.

In the public debate over the death penalty, we are dealing with values of the highest order: respect for the sacredness of human life and its protection, the preservation of order in society, and the attainment of justice through law. The function of biblical sanctions against a heinous crime such as murder is to *discourage* the wanton destruction of *innocent* life.

Undergirding the biblical sanctions against murder<sup>[7]</sup> is the utter sacred character of human life. The shedding of blood in ancient Israel polluted the land - a pollution for which there was no substitute - and thus required the death penalty. This is the significance of the sanctions in Genesis 9 against those who would shed the blood of another.

It is because humans are created in the image of God that capital punishment for premeditated murder was to be a perpetual obligation. To kill a person was tantamount to killing God in effigy.<sup>[8]</sup> The Noachic covenant recorded in Genesis 9 antedates Israel and the Mosaic code; it transcends Old Testament law per se and mirrors ethical legislation that is binding for all cultures and eras.

The sanctity of human life is rooted in the universal creation ethic and thus retains its force in society. Any culture that fails to distinguish between the criminal and the punitive act, in my opinion, is a culture that cannot survive. In this way, then, my own ethical thinking has evolved. I'm well aware that sincere Christians stand on both sides of this issue.

One's views on the death penalty are by no means a test of fellowship. While we take no pleasure

in defining the contours of this difficult ethical issue, the Christian community nevertheless is called upon to articulate standards of biblical justice, even when this may be unpopular. Capital justice, I have come to believe, is part of that non-negotiable standard.

A moral obligation requires civil government to punish crime, and consequently, to enforce capital punishment, albeit under highly restricted conditions. Fallible humans will continue to work for justice. But fallible as the system might be, part of the Christian's task is to remind surrounding culture that actions indeed have consequences - in this life and the life to come.

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### Footnotes

[1] Luke 23:39-43. ([back](#))

[2] "The Humanitarian Theory of Punishment," *God in the Dock* (Eerdmans, 1970), pp. 287-94. ([back](#))

[3] Carl Henry states the matter with characteristic clarity: "Where the state considers the life of a deliberate murderer to have greater value than the life of an innocent victim, it demeans the *imago Dei* in mankind and weakens the supports of social justice" (Carl F.H. Henry, "Perspectives on Capital Punishment," in *Twilight of a Great Civilization* [Westchester: Crossway, 1988] 71). ([back](#))

[4] Acts 25:11. ([back](#))

[5] Num. 35:31,33. ([back](#))

[6] J.S. Mill, *Hansard's Parliamentary Debate* (3rd Series; London, April 21, 1868). ([back](#))

[7] The prohibition against murder applied to premeditated murder, self-murder, accomplices to murder, and to those who possessed legal authority to punish murderers. ([back](#))

[8] W.C. Kaiser, Jr., *Toward Old Testament Ethics* (Grand Rapids: Zondervan, 1983) 91. ([back](#))

The Ethics & Religious Liberty Commission

# Capital Punishment: Overview

By *Barrett Duke*

Mar 22, 2001

Capital punishment, or the death penalty, refers to the execution by the state of those guilty of certain crimes. Though some have opposed capital punishment for ideological and practical reasons, it is important to note that God mandated its use. This divine mandate occurs first immediately after the Noahic Flood. In Gen. 9:6 God instructs Noah and his sons, "Whoever sheds man's blood, by man his blood shall be shed."

God's reason for issuing this mandate is that humans are created in the image of God (Gen. 9:6). Mankind's creation in the image of God is what makes all human life sacred and can bring a penalty as severe as death for its violation.

The right to exercise capital punishment is reserved for the state, not the individual. There is no place for personal revenge in the administration of this punishment (Rom. 12:19). It is the state's responsibility, as God's civil servant on earth, to protect its citizens and to punish those who harm them (Rom. 13:4,6). Capital punishment provides the state the means to apply the appropriate punishment to the crime (Deut. 19:21).

God instituted capital punishment as a legitimate punitive option for every state. Its institution predates Israel's birth as a nation and Moses' divinely inspired directions for the nation's governance, eliminating the possibility that capital punishment was mandated solely for Israel. God issued guidance on capital punishment to earth's only surviving people (Gen. 7:20-24); these people and God's instructions to them provided the foundation for all subsequent governments.

Capital punishment remains a valid instrument in the state's administration of justice. Paul affirms that the governing authorities "do not bear the sword (machaira) for nothing" (Rom. 13:4). It is likely that Paul is expressing the general principle that the state has the right to punish its citizens for breaking its laws. More specifically, however, since the machaira (sword) is typically an instrument of death in the New Testament, and certainly in Romans (cf. Rom. 8:35-36), it is evident that the state's authority to administer justice includes capital punishment.

The state possesses this power of death to punish evil (Rom. 13:4; 1 Pet. 2:13-14); however, only those acts identified by God as evil justify the use of capital punishment (Isa. 5:20). A state that uses capital punishment for something other than punishing evil as defined by God abuses its power and violates God's standard for its use. An example of such an abuse of power is Nazi Germany's killing of millions of Jews.

The state does not violate the sixth commandment ("Thou shalt not kill," Ex. 20:13, Dt. 5:17 KJV) by its proper exercise of capital punishment. The Hebrew word *ratzach*, translated kill in some translations of Ex. 20:13 and Dt. 5:17, refers to acts of murder or homicide. A different word, *harag*, often translated kill, occurs in most other passages in the Old Testament. Rather than violating the sixth commandment by its use of capital punishment, the state actually supports the commandment by executing those who murder.

In order to assure the fair administration of justice God established some important guidelines for Israel, which any state would be wise to adopt, especially in a matter as serious as capital punishment.

The accused person must have committed a crime for which death is the appropriate punishment. God states: "life for life, eye for eye, tooth for tooth, hand for hand, foot for foot" (Deut. 19:21).

Clear evidence of guilt must be provided by two or three witnesses. One witness was not sufficient to result in capital punishment (Num. 35:30; Deut. 17:6). God is aware that unscrupulous people may attempt to use the death penalty for evil purposes. Therefore, He requires multiple witnesses to the supposed crime.

Those charged with crimes must be treated in a uniform and impartial manner, regardless of status (Deut. 1:17) or class (Lev. 19:15). Any society that favors some people and discriminates against others because of class or status, or deprives some of adequate defense, intentionally or through neglect, diminishes its integrity and creates serious doubts about its commitment to justice (Lev. 24:22).

Some view the incident with the woman caught in adultery as evidence that Jesus opposed capital punishment (John 8:1-11). However, Jesus' reaction in this incident was not directed at the prescribed punishment, but rather at those who sought to trap Him into participating in an act that was illegitimate for several reasons (John 8:6). First, the scribes and Pharisees did not constitute an official governing body. Their efforts represented an illegitimate attempt to exercise the power of the state. Second, there is no indication that there was any formal presentation of charges against the woman or official declaration of her guilt. Third, there is no evidence that the witnesses to the crime were present. At least two witnesses were necessary to prove capital cases and, in many instances, they had to throw the first stones (Deut. 17:6-7).

Jesus did not point out these failings. Instead He used the incident to illuminate the hypocrisy of the scribes and Pharisees by calling for someone without sin to throw the first stone (John 8:7). Only a sinless person could claim the moral authority to execute this woman for a crime for which she had not been legally convicted. Knowing that their situation was legally untenable and that they could not possibly claim to be sinless, the scribes and Pharisees retreated (John 8:9). Obviously, Jesus' words were directed at the scribes and Pharisees, not the issue of capital punishment.

Though capital punishment remains a legitimate option for the state, this option must be exercised under the strictest of conditions. The state that chooses to exercise the power of life and death over its citizenry must be certain it has done all it can to assure that it is punishing the right person, that the punishment fits the crime, and that everyone, regardless of class or status, has had an adequate, vigorous defense. Anything less may bring the condemnation of God on that society.

## Offenses requiring capital punishment in Israel

- Intentional homicide (Ex. 21:12; Lev. 24:17; Num. 35:16-21, 29-34)
- False witnessing in capital cases (Deut. 19:16-21)
- Idolatry (Lev. 20:1-5; Deut. 13:6-11; 17:2-7), including human (Lev. 20:2) and animal sacrifices (Ex. 22:20)
- Blasphemy (Lev. 24:14-16, 23; 1 Kings 21:13; Matt. 26:65-66)
- Witchcraft and false claims to prophecy (Ex. 22:18; Lev. 20:27; Deut. 13:1-5; 18:20; 1 Sam. 28:3,9)
- Profaning the Sabbath (Ex. 31:14; 35:2; Num. 15:32-36)

- Rape of an engaged woman (Deut. 22:23-27), including the woman if she did not cry out for help
- Adultery (Lev. 20:10-12; Deut. 22:22)
- Sexual relations outside of marriage: (a) before marriage, but discovered afterward (Deut. 22:20-21), the woman alone to be executed; (b) consensual relations with another's betrothed (Deut. 22:23-24), both to be executed; © by a priest's daughter (Lev. 21:9)
- Acts of incest, homosexuality, and bestiality (Ex. 22:19; Lev. 20:11-17)
- Kidnapping (Ex. 21:16; Deut. 24:7)
- Cursing or striking one's parents (Ex. 21:15,17)
- Incurability (Deut. 12:18-20; Ezek. 18:1-18)
- Refusing to obey the court (Deut. 17:12).

Because God held His covenant people to a high spiritual standard, He specified capital punishment for the above acts. Since no other nation has this same relationship with God, He has not specified that these acts are subject to the same penalty in other societies. However, because God mandated capital punishment prior to Israel's establishment, at the very least, it is a legitimate response to murder in other societies.

## Forms of capital punishment stipulated or mentioned

- Stoning was the usual method in Israel (Ex. 19:13; Lev. 20:27; Deut. 22:24; Josh. 7:25)
- Burning (Lev. 20:14. Lev. 21:9)
- Sword (Ex. 32:27; Deut. 13:15)
- Spear (Num. 25:7-8)
- Shooting by arrow (Ex. 19:13)
- Beheading (2 Sam. 16:9; 2 Kings 6:31-32)
- Crucifixion, only by Roman decree and Roman soldiers (Matt. 27:22-26, 33-50; Mark 15:15-32; Luke 23:13-33; John 18:28-19:30). Jewish authorities under Roman rule were not normally permitted to execute anyone (John 18:31).

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## Further Learning

## 4 comments

1

On Apr 2nd, 2007, at 4:17pm, Rick Hudgins wrote:

I find it extremely interesting that the vast majority are all laws being used by Christians to justify capital punishment are based within the Old Testament, Israelite (Jewish) context. Religious conservatives (an admittedly loaded term) seem to love to try to apply these same laws of a religion that is not Christianity- whether they are justifying war and foreign occupation, the dehumanization of homosexuals, or advocating violence via "capital punishment."

Now, Paul does write "...for the authority does not bear the sword in vain! It is the servant of God to execute wrath on the wrongdoer." (Rom. 13.4, NSRV); however, he also writes just four verses later: "Owe no one anything, except to love one another; for the one who loves another has fulfilled the law." (Rom. 13.8, NSRV)

Please show me where, in Scripture, \*Christ\* (who is NOT PAUL, for some of you out there) unquestionably acknowledges and condones the use of capital punishment. Thanks.

2

On Jan 15th, 2008, at 10:26pm, Joe DiMarco wrote:

Rick,

You ask for someone to show you in scripture where Christ condones the use of capital punishment. Well for any Bible believing Christian we believe that God the Father, God the Son (Christ), and God the Holy Spirit are one in the same, also known to be the Trinity.

With that said Christ and God are one in the same...Also in John 1:1-2 states, "In the beginning was the Word, and the Word was with God, and the Word was God. He was with God in the beginning.

Going with that and not repeating what was stated in the main article you can see that Christ is the one who condoned capital punishment in the first place.

The Bible is meant to be taken in its entirety or none at all, it is that simple. God is the authority of all things and Jesus Christ is in total and complete agreement with the Father. So there you have it... You can believe it or not but the facts are the facts. No need trying to debate it because again it is what it is.

3

On Mar 16th, 2008, at 2:11pm, denny wrote:

We need to remember that the two that was being executed with Christ on the cross. One of the sentenced prisoners on the cross ask Jesus too remember me when you enter Gods kingdom. Jesus said today you will be with me

in paradise. Jesus didnt interfere with his death penalty given by the Roman government. If he opposed it and change it he could of influenced the roman government and have that criminal who was caught for his crime taken down from the cross.

Its great though its never too late to accept Christ and enter the kingdom of heaven.

We must obey the laws of the land. Jesus did usher in a new dispensation and gave the laws higher spirtual realm and implimentations but in know where in scripture did he abolish the death penalty.

#### 4

On Jul 17th, 2008, at 9:34am, bill colley wrote:

He whose life is without sin may cast the first stone. Those who advocate the death penalty must have lives without sin.

The death penalty is cruelty, meanness, and revenge. All of Christ,s teachings speak against this. He never distinguishes between people in government and others.

In the sermon on the mount, Christ did not change the law, but obviously the penalty for its violation - against an eye forv ann eye and tooth for tooth is prohibited.God has always been willing to change his mind based on His people.

I was baptised as Southern Baptist about 60 years ago.I never met a Southern Baptist as a child and young adult who believed in the death penalty. As a result, I am no longer a Southern Baptist.

I strongly believe it is not scriptural. Athought I am not a significant in the eyes of the world, I would very much like for the proclamation on the death penalty be vacated.

If you have read this, thank you.

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