

Sam Storms
Enjoying God Ministries
Romans #52
March 20, 2022

**Is Capital Punishment Supported by the Scriptures?
A Biblical Analysis of a Contentious Debate
Romans 13:1-7 (1)**

In October of 2021, a survey of some 500 registered voters in Oklahoma revealed that 64% favor the death penalty, with 41% strongly in support of it and 23% somewhat in favor of it. 23% of those polled oppose the death penalty. 13% said they were undecided. We may soon find out if these percentages are accurate, as Democratic State Representative Mauree Turner has filed legislation for the 2022 session that would create a state question to be voted on to determine if the death penalty should be retained. Twenty-three states have already abolished the death penalty.

Admitted double murderer Donald Anthony Grant was executed at 10:00 a.m. on Thursday, January 27, 2022, the third such execution in Oklahoma in the past six months. Oklahoma carried out its fourth execution in the past half year when Gilbert Postelle was put to death on Thursday morning, February 17. Postelle confessed to having murdered four people on Memorial Day in 2005. During Postelle's clemency hearings, attorneys for the state said, "In her final moments, Amy Wright was screaming and clawing the ground to escape from Gilbert Postelle. He heard her screams, saw her desperate attempt to escape from him. Rather than showing Amy mercy, he shot her in the back three times." Those seeking to deliver Postelle from execution argued that he had been diagnosed with schizophrenia and became addicted to methamphetamine at the age of 12.

In July, 2013, following the execution of the 500th person since capital punishment was restored by the Supreme Court in 1976, Baptist theologian Roger Olson wrote a blog article entitled, "The Heresy of Capital Punishment." What does Olson mean by this? He explains:

"It is my considered opinion that belief that capital punishment, at least as it is known and practiced in the U.S. today, is a heresy when espoused by Christians. It manifests an embrace of the myth of redemptive violence by humans and flies in the face of the ethic of Jesus which forbids violent retribution. It is absolutely, incontrovertibly contrary to love. And it is, as practiced in the U.S. today, manifestly unjust."

He doesn't stop there. As for how Christian churches should respond to those members who advocate capital punishment, he writes:

"I believe Christian churches of all kinds ought to do more to oppose capital punishment. They ought, at the very least, to declare it incompatible with Christian faith and put members who openly believe in it under some kind of discipline (not necessarily excommunication but at least forbidding them to teach it in the ecclesial context). And those who practice it, actively seeking it and participating in it, should be excommunicated from Christian churches."

What are we to make of this? Is Olson correct in his assessment? Our approach to this issue must begin by a careful analysis of the relevant biblical texts. It's important to acknowledge up front that an air-tight exegetical case cannot be made in defense of capital punishment. But I do believe the Bible has recognized and endorsed the legitimacy of it in the past. What we should do in the present is a matter of grave importance.

Relevant Biblical Texts

(1) The place to begin is with Genesis 9:5-6 where we read:

“And for your lifeblood I will require a reckoning: from every beast I will require it and from man. From his fellow man I will require a reckoning for the life of man. ‘Whoever sheds the blood of man, by man shall his blood be shed, for God made man in his own image’” (Genesis 9:5-6).

The words “sheds the blood” refers to violent, unjustified taking of another human life (cf. Gen. 37:22; Num. 35:33; 1 Kings 2:31; Ezek. 22:4). God does not directly carry out this punishment. He has delegated this responsibility to humans. It was divine justice, not human vengeance. CP was not invented by men. It was God’s idea. Several other questions should be asked.

First, is Genesis 9:6 a statement of fact or a divine command? Is it predictive or prescriptive? Is it a forecast of what the consequences of murder will be, or is it a divine sanction for capital punishment (hereafter CP)? The Hebrew grammar will permit either view.

If this is merely predictive, the point of the text is that divine retribution against the murderer will take its course and will sooner or later catch up with the killer. In other words, God's providence will ultimately ensure that he/she is brought to justice. However, v. 5b speaks of God's requiring the life of the murderer from the hand of man. If in v. 5b God requires the death of the murderer, it seems reasonable that in v. 6 he commands that it be done. Subsequent provisions in the Law of Moses also explicitly require that murderers be put to death, as we will shortly see.

Experience tells us that not all murderers have in fact had their blood shed by other men. Thus, if Genesis 9:6 is merely predicting what will happen to murderers, it is a prediction that has failed. The fact is, many murderers go to their graves after a long and happy life. Not all of them are brought to justice. It seems more likely, then, that the text is prescribing or commanding CP.

A second question to ask: Do we have reason to believe that this command is a pattern we are free to follow or perhaps even a moral responsibility that is universally binding? My answer is two-fold.

First, the basis for the command is that man is created in the image of God (v. 6). “To kill a person was tantamount to killing God in effigy” (W. Kaiser, 91). Man is still in the image of God. Thus, the rationale for CP is not tied to any cultural or socio-economic phenomena but to a truth regarding man that is universally relevant. Second, the command is part of the Noahic covenant which is universal in scope and carries no ethnic or temporal limitations (vv. 9-10). Noah stood as the new head of the race, even as did Adam in Eden. This is a new beginning, a re-creation of the world, as it were.

(2) A second important passage is Exodus 20:13 – “You shall not murder.” But there are several reasons why this text cannot be used to forbid CP.

The word translated “murder” is one of several Hebrew terms which means to take life. Some translations render this, “You shall not kill.” But it should be rendered “murder” (not “kill”). The Hebrew word *ratsakh*, used here in Exodus 20:13, refers to the unlawful taking of an innocent life. But the Hebrew word that refers to judicial execution is *muth*. Consider how they both appear in Numbers 35:16,

“The murderer [*ratsakh*] shall be put to death [*muth*]” (Num. 35:16).

Clearly, the “killing” of a “murderer” is not itself “murder.” That such a text does not prohibit all life-taking is also evident from the fact that God commanded Israel to kill their enemies during the conquest of Canaan. And we must not neglect Exodus 21:12 which clearly endorses CP - “Whoever strikes a man so that he dies shall be put to death.”

As a brief aside, be it noted that the death penalty in the Mosaic Law was called for in numerous cases: (1) premeditated murder (Ex. 21:12-14); (2) kidnapping (Ex. 21:16; Deut. 24:7); (3) striking a parent (Ex. 21:15; the word means “to attack with great force,” not merely slap; i.e., it is attempted murder by severely beating someone); (4) cursing a parent (Ex. 21:17; a repudiation of parental authority; a verbal despising of them); (5) sacrificing to a false god, i.e., idolatry (Ex. 22:20); (6) sorcery/magic (Ex. 22:18); (7) breaking the Sabbath (Ex. 35:2); (8) adultery (Lev. 20:10-21); (9) homosexuality (Lev. 20:13); (10) incest (Lev. 20:11-12,14); (11) bestiality (Lev. 20:15-16); (12) human sacrifice (Lev. 20:2); (13) blasphemy (Lev. 24:11-14,16,23); (14) incorrigible juvenile delinquency (Deut. 17:12; 21:18-21; this is not a young teen but an “older youth”; this deals, not with a one-time outburst, but with a settled disposition; note the public trial); (15) leading people into the worship of other gods by means of false prophecy (Deut. 13:1-10); (16) fornication (Deut. 22:20-21); and (17) rape (Deut. 22:23-27).

In the case of all these offenses (with the exception of murder), it was possible to pay a ransom or make some form of monetary or property settlement and have the sentence commuted.

“Moreover, you shall accept no ransom for the life of a murderer, who is guilty of death, but he shall be put to death” (Num. 35:31).

Question: Was the Mosaic law strict, oppressive, heartless, and cruel in its application of CP? No. The fact is, ***the Mosaic Law actually represents a massive reduction in capital offenses from the original list.*** As R. C. Sproul puts it, “the OT code represents a bending over backwards of divine patience and forbearance. ***The OT law is one of astonishing grace***” (*The Holiness of God*, p. 148). The original law of the universe is that “the soul that sins, it shall die.” Life is a divine gift, not a debt. Sin brings the loss of the gift of life. Once a person sins, he forfeits any claim on God to human existence. The fact that we continue to exist after sinning is owing wholly to divine mercy and gracious longsuffering.

We recoil and are aghast at what we are convinced was undue cruelty and severity in the OT law. Why? Because we are twisted and confused in our thinking. *We think we deserve to live, and that God owes us life.* The fact that God made only 15-20 sins capital offenses was a remarkable act of mercy, compassion, and grace. Why? Because it would have been perfectly just and fair and

righteous had he made *every* sin a capital offense. The Mosaic stipulations regarding the death penalty, therefore, were remarkably lenient and gracious.

We must also remember that we are no longer under the stipulations of the Mosaic Code and therefore we cannot assume that CP is valid today simply because it was endorsed under the old covenant. Having said that, we must also acknowledge that the presence of CP in the Mosaic Code indicates that, at least in principle, the practice was not morally abhorrent or inconsistent with the character of God.

(3) Our third major passage is the justly famous encounter of Jesus with the woman taken in adultery. I encourage you to pause for a moment and read John 8:1-11. (Although this narrative is probably not a part of the original inspired text of John's gospel, it probably occurred precisely as recorded; see John 20:30-31; 21:25).

Did Jesus abolish the death penalty when he said to the religious leaders, "Let him who is without sin among you be the first to throw a stone at her," and to the woman taken in adultery, "Neither do I condemn you"? Several things should be noted.

The incident took place on the last day of the Feast of Tabernacles (cf. 7:2,37) when Jerusalem was filled with pilgrims. Chance encounters between men and women, leading to adultery, would be commonplace. Her accusers claimed to have caught her in the very act. It was difficult to prove adultery under Jewish law. Mere suspicion was inadequate. Even direct knowledge of their presence together was insufficient grounds on which to bring charges. There had to be at least two eyewitnesses who could testify that the physical movements of the people in question allowed no other interpretation than that adultery had occurred.

Their motivation is made clear in v. 6 – "This they said to test him, that they might have some charge to bring against him." They were not there out of moral outrage or because of a commitment to justice. They intended to trap Jesus. They wanted grounds on which to accuse Jesus, not the woman.

Where was the man with whom she had allegedly committed this sin? Had he escaped? Did they deliberately let him go? Had he bribed them? Perhaps they had intentionally set him up with the woman so they could make use of her against Jesus. Or did they regard only women caught in adultery as morally accountable? Was she married? If so, where was her husband? Was she single or possibly engaged?

Their intent was to entrap Jesus on the horns of a dilemma (cf. Matt. 22:15-22). The Jews could pass sentence on a capital crime but did not have the authority to execute someone (cf. John 18:31). If Jesus were to insist that she be executed, this could be twisted into an illegality or an endorsement of subversion against the Roman state that might serve as the basis for an accusation against him in a court of law. On the other hand, if he refused to demand that she be punished, they could persuade the people he was in defiance of the Mosaic Law and thereby undermine his reputation among those who were his followers.

His response was to bend down and write “with his finger on the ground” (v. 6b). The Pharisees interpreted this as a stalling tactic and pressed their attack by repeating the question (v. 7). Why and what did Jesus write in the ground? As you can imagine, several suggestions are forthcoming.

(1) Some say he was imitating the Roman magistrate who would first write down the sentence of a criminal and then read it aloud. If so, Jesus would be writing the words of v. 7b. But if this is the case, why does he write again, as v. 8 indicates he does?

(2) Others suggest he wrote Jeremiah 17:13 – “O Lord, the hope of Israel, all who forsake you shall be put to shame; those who turn away from you shall be written in the earth, for they have forsaken the Lord, the fountain of living water.”

(3) Perhaps it wasn't what he wrote but the mere fact that he wrote that is significant. See Exodus 31:18 where God wrote the Law with his finger; hence, Jesus is symbolically declaring that he is God, author of the law.

(4) Was he simply doodling, hoping to calm his anger or perhaps buy time to think?

(5) Did he write the sins of his accusers?

(6) Perhaps he first wrote Exodus 23:1b (“You shall not join hands with a wicked man to be a malicious witness”) and then Exodus 23:7 (“Keep far from a false charge, and do not kill the innocent and righteous, for I will not acquit the wicked”). In the final analysis, we simply don't know.

What did Jesus mean in saying, “Let him who is without sin among you be the first to throw a stone at her”? We know that he was not requiring absolute sinlessness before one can rightly/justly participate in a criminal proceeding. If he were, there could never be any civil justice (neither judges nor lawyers nor witnesses nor juries) or ecclesiastical discipline, for all are sinners; none is sinless.

Others say he means that if you are a sinner you should refrain from ever judging or criticizing others. But Matthew 7 and 18 both teach us that this cannot be the case. He may mean, “He who is without the sin of adultery . . .” I.e., an adulteress cannot be condemned and executed by other adulterers. But is it likely that all of these religious leaders were adulterers?

The most likely answer is that he means, “He who is without fault,” i.e., whoever is qualified to serve as a legitimate witness against her and has fully complied with the law of Moses. In other words, Jesus questions their competence to serve as legal witnesses against her. Thus: “He who is faultless in regard to the criteria for a witness against her, let him cast the first stone.”

The Mosaic Law required that both the man and woman caught in adultery be executed (Deut. 22:22-24). Also, more than one person had to testify to having caught them in the act (Deut. 17:6-7). If only one was willing to bear witness, the case would be thrown out. Also, the eyewitnesses had to throw the first stone, indicating that he, if he existed, was not present.

Finally, if the victim was later found to be innocent, having been put to death on the basis of perjured testimony, the executioners (witnesses) were themselves to be executed (see Deut. 19:16-19). Thus, Jesus is probably challenging the integrity of the eyewitness case against her. The religious leaders leave, stunned and humiliated (v. 9).

Why did Jesus decline to condemn her (vv. 10-11)? Primarily because he was not an eyewitness either. But neither does he condone her sin. He doesn't make light of adultery by setting her free. He commands her to "sin no more." Thus, if Jesus abrogated the death penalty in John 8, he did it only in the case of adultery, not murder.

(4) Our fourth text is Acts 25:11 where we find Paul testifying before Festus. The apostle declares:

"If then I am a wrongdoer and have committed anything for which I deserve to die, I do not seek to escape death. But if there is nothing to their charges against me, no one can give me up to them. I appeal to Caesar."

Three observations are in order. First, Paul recognized that there were in fact some crimes that were worthy of death. How many or which ones we cannot know; but at minimum, murder is in view. Second, Paul says he would offer no resistance should he be found guilty of such a crime. He would make no plea for clemency simply because he was a Christian. Third, implicit in Paul's statement is his belief that the governing authority had the right to inflict capital punishment. He did not rebuke or denounce the government for usurping a prerogative it did not rightfully possess.

(5) We now come to Romans 13:3-4 where Paul envisions a two-fold purpose of government: to promote and praise that which is good, and to prohibit and punish that which is evil. In order to carry out this latter function, God has invested the state with the power to inflict punishment. The word "sword" is *machaira* which is often used of the instrument people use to kill others. See Luke 21:24; Acts 12:2; 16:27; Heb. 11:37; Rev. 13:10. The LXX also uses this word in the same way in Deut. 13:15; 20:13. The sword is not merely a sign or symbol of the state's authority to enforce its laws but also a power to execute.

Objections to the Practice of Capital Punishment

1. CP is not an effective deterrent to crime

Statistical evidence on the issue is inconclusive. Studies have yielded support for both sides of the argument. The question also needs to be answered: What deters all of us who have never committed a capital crime? Could it be the prospect of death? CP certainly deters the murderer from committing another murder. And if capital punishment does *not* deter the potential murderer, those who oppose the practice will have to concede that no other form of punishment will either. Does this not mean that any and all forms of punishment are arbitrary? And let's not forget that CP is not primarily for the purpose of deterrence but an expression of justice.

Finally, “if executing a convicted murderer is 'barbaric,' is it not all the more barbaric to make possible the sacrifice of additional lives in order to save the life of the murderers? If, for the sake of argument, capital punishment is implemented under the mistaken notion that it deters, the lives of convicted murderers are lost. If, on the other hand, capital punishment is abolished due to the mistaken belief that it does not deter, then innocent lives are lost. Social justice would therefore suggest – all things being equal – that the death penalty for premeditated murder should be retained, theological presuppositions aside” (Daryl Charles, “Outrageous Atrocity or Moral Imperative? The Ethics of Capital Punishment,” *Studies in Christian Ethics* 6/2, 1993, p. 9).

Daryl Charles also contends, correctly I believe, that “no person who in principle is opposed to capital punishment will be sufficiently convinced by any statistics that are suggestive of changing trends in criminal justice” (8). In other words, if it could be proven that abolition of the death penalty would result in a 100% increase in the homicide rate, those opposed to the death penalty would in all likelihood remain opposed.

2. CP violates the biblical warnings against seeking vengeance (Rom. 12:17-21; 1 Peter. 3:9); believers are to love their enemies, not execute them (Matt. 5:43-44)

But there is a difference in Scripture between what is the prerogative of the individual in interpersonal relationships and what is the prerogative of the state in the administration of public justice. Whereas Christians are not permitted to seek personal vengeance, the state is allowed to seek public justice. The prohibition of personal revenge in Romans 12 is followed immediately by the endorsement of public retribution in Romans 13.

We must also consider Revelation 6:9-10 which describes the experience of those who had been martyred for their faith. As you read this, remember that they are free from sin. There is no trace of wicked or sinful desire in them.

“When he opened the fifth seal, I saw under the altar the souls of those who had been slain for the word of God and for the witness they had borne. They cried out with a loud voice, ‘O Sovereign Lord, holy and true, how long before you will judge and avenge our blood on those who dwell on the earth?’” (Rev. 6:9-10).

So, the desire or longing for justice against perpetrators of evil and persecution is entirely legitimate. What is illegitimate and forbidden to Christians is seeking this justice on our own.

3. CP constitutes cruel and unusual punishment

This argument depends on what one means by the terms cruel and unusual. If cruel means painful and penal, then CP is indeed cruel. But justice requires the infliction of penal pain for certain crimes. Certainly torture is not to be allowed. But all punishment, to some degree, is painful. If unusual means irrational, we are back to the original question of whether or not CP is an effective means to accomplish the ends for which it is designed. If it is, it isn't irrational.

4. CP discriminates against minorities and the poor

As the Feinberg brothers point out, “discrimination does not show capital punishment to be morally wrong. Instead, it suggests a need to change the judicial system in order to administer the death penalty fairly. The proper or improper manner in which any penalty is implemented says nothing whatsoever about moral rightness or wrongness of the penalty per se” (*Ethics for a Brave New World*, 136). Furthermore, it is not at all certain from recent studies that minorities and the poor are discriminated against in cases of CP.

5. CP allows for the possibility of the execution of the innocent

Again, “cases where convicted killers were later found innocent do not demonstrate that the death penalty per se is wrong. They only show that demands for proof of guilt must be much more stringent than current judicial procedures require” (Feinbergs, 136). Daryl Charles agrees:

“That there is room for error in the criminal justice system is undeniable. That 'mistakes' will be made is inevitable. Yet, to state the obvious, no domain of our present legal system is predicated on a zero-percent chance of error; fallible people in an imperfect system work toward 'just' results. Imperfections in the system justify efforts at working toward reform as it touches application, but not abolition of the underlying principle. The presupposition of error, incontestable in and of itself, must necessarily be tempered by the weight of New Testament apostolic teaching” (7).

Thus, even in an imperfect system, the governing authorities serve the will of God by restraining evil. This is Paul's point in Romans 13.

6. The demand for CP ignores the biblical examples of mercy and clemency (Cain, David, and Moses all committed intentional murder yet were extended mercy; David and Moses went on to live productive and godly lives)

In the OT exceptional cases, it was God who extended mercy, not society. There is a profound difference between the responsibility of civil government, on the one hand, and the freedom of God to pardon whomever he wishes, on the other. Unless instructed by God to do otherwise, the state is bound to follow the dictates of Scripture in the application of CP.

7. It is logically and morally inconsistent for Christians to argue in favor of capital punishment while at the same time arguing against abortion and euthanasia

Can a Christian consistently oppose abortion and euthanasia while endorsing CP? Yes. We must remember that “the unborn, the aged, and the infirm have done nothing deserving of death. The convicted murderer has” (Feinbergs, 147). CP is not, as critics suggest, a disregard for the sanctity of life. It is, in point of fact, based on belief in the sanctity of life: the life of the murdered victim. Also, whereas life is indeed sacred, it can still be forfeited. Finally, the Bible opposes abortion and endorses CP. Therefore, if there is an inconsistency, the problem is God's.

8. CP terminates all hope for the salvation of the victim

It is true that CP ends all hope of salvation for the lost. But so, too, does war and occasionally self-defense. Yet the Bible endorses the latter two activities. Also, “life is uncertain, and decisions about our eternal destiny cannot be delayed at our own leisure. God said to the rich and complacent fool, ‘Fool! This night your soul is required of you!’ (Luke 14:20)” (J. J. Davis, 187). Perhaps the prospect of impending death will serve to shock the unbeliever to repentance. Finally, again it is God who endorses CP. So, if there is a problem with it in relation to the lost, it is God's problem, not ours.

9. For what crimes should CP be the required penalty? Who decides?

It would appear that premeditated murder is a crime worthy of capital punishment. Others have argued that espionage, as well as kidnapping along with brutal rape would qualify.

10. Would Jesus push the button or pull the plug in the execution of a human being?

Let’s remember four things. First, Jesus believed in and endorsed the inspiration of the Old Testament and lived under its moral authority during the course of his earthly sojourn. Therefore, I believe he embraced the truthfulness and righteousness of the civil code of Moses, including its regulations concerning capital punishment for specified crimes and sins.

The appeal is often made to the teaching of Jesus that we must “love” our neighbor as ourselves (Matt. 22:39)? How can we “love” another person at the same time we endorse their execution? But again, this fails to differentiate between what we as individuals are called on to do and what the civil government is authorized to do. Also, Jesus is quoting from Leviticus 19:18. Only a few verses later, in Leviticus 20:2, 10, God commanded the death penal for certain crimes.

Second, we must also remember that Jesus is the incarnate God. He is Yahweh in human flesh. Jesus is none other than the very God who inspired Genesis 6:5-6, who commanded the slaughter of the Canaanites, the very God who instituted the civil stipulations of the Mosaic Code. We must never pit the “God of the NT” against the “God of the OT” as if they were not one and the same.

Third, the Jesus of whom we ask this question is the very Jesus from whose mouth, at his Second Coming, issues “a sharp sword with which to strike down the nations, and he will rule them with a rod of iron. He will tread the winepress of the fury of the wrath of God the Almighty” (Rev. 19:15). If one believes that it is consistent with the moral character of Jesus to slaughter his enemies at the Second Coming and consign the unbelieving to hell, why is it any more difficult to believe he would have endorsed CP and, if in a position to do so as an agent of the state, would have participated in an execution?

Finally, Jesus did not hold a position of political or military authority during his earthly sojourn. He was not an officer of the state. As a private citizen, he would have abided by the same principles that govern all interpersonal relationships: he would have turned the other cheek, walked the second mile, and refused to retaliate or seek vengeance on those who perpetrated evil against him. But I believe he would have supported the state’s right to inflict punishment on criminals. So, yes, if he had served in an official capacity as an agent of the Roman government, I believe he would have participated in the execution of those who by law had been determined to be worthy of death.

