

ISSUES IN PERSPECTIVE

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Is Capital Punishment Biblical?

In the United States, capital punishment remains legal in 31 states and in the federal civilian and military legal systems (for specific crimes). The Eighth Amendment to the United States Constitution has been understood as the key section of the Constitution governing capital punishment, and it has been interpreted to apply to murders committed by mentally competent adults.

In 2014, 35 inmates were executed in the United States, and 3,002 were on death row. States such as Texas, Oklahoma, Florida, Missouri, Ohio, Virginia, Georgia, and Arizona have executed convicted murderers. Texas has performed the most executions by far, and Oklahoma has had (through mid-2011) the highest *per capita* execution rate. Alabama has the highest per capita rate of prisoners on death row in the US. However, a number of states have abolished the death penalty, most recently Nebraska in May 2015.

Until the 21st century, electrocution and gassing were the most prevalent methods of execution in the United States. Currently, lethal injection is the method used or allowed in all of the 31 states that still have the death penalty. From 1976 to June 18, 2015, there were 1,411 executions, of which 1,236 were by lethal injection, 158 by electrocution, 11 by gas chamber, 3 by hanging, and 3 by firing squad. The use of lethal injection has now become the standard.

In the 2010s, due to anti-death penalty advocacy and low production volume, American prisons that execute criminals have experienced a shortage of lethal injection drugs. Hospira, the only U.S. manufacturer of sodium thiopental, stopped making the drug in 2011. The European Union has outlawed the export of any product that could be used in an execution, thereby preventing executioners from using EU-manufactured anesthetics. Another alternative, pentobarbital, is also only manufactured in the European Union, which has caused the Danish producer to restrict distribution to U.S. government customers.

How should we think biblically about capital punishment itself?

- First some thoughts about the three-drug procedure (Sodium Pentothal, Pancuronium Bromide and Potassium Chloride) used for lethal injections. Throughout US history, various methods have been used in capital punishment cases to bring about death—hanging, firing squads, electric chairs, gas chambers, and now lethal injections. In 1977, Dr. Jay Chapman, chief medical examiner in Oklahoma, developed the three-drug injection procedure. In theory, this procedure should kill the convicted criminal painlessly and quickly. However, this has not always been the case. In legal terms, the issue remains whether the Eighth

Amendment bars an execution method that creates an unnecessary risk of pain and suffering. The Supreme Court has not definitively ruled on this issue.

- Second, a 2007 study draws attention to the matter of deterrence and capital punishment. The study suggests that the death penalty, when carried out, has a significant deterrent effect on the number of murders. The study examined the relationship between the number of executions and the number of murders in the US for the 26-year period from 1979 to 2004, using data from publicly available FBI sources. The correlations established by the data seem to suggest that when executions increase, murders decrease, and when executions decrease, murders increase. The study is rather compelling: There is a simple but dramatic relationship between the number of executions carried out and a corresponding reduction in the number of murders. Therefore, Roy Adler and Michael Summers, both of Pepperdine University, who conducted the study, reach this conclusion: “The conclusion that each execution carried out is associated with the saving of dozens of innocent lives creates an extraordinarily difficult moral dilemma for those who campaign against the death penalty.” They suggest that the proper ethical question is: “[D]o we save this particular life [i.e., the criminal] at a cost of the lives of dozens of future murder victims? That is a much more difficult moral dilemma, which deserves wide discussion in a free society.”
- Third, how do we approach this issue from a biblical perspective? As with the issue of war, capital punishment is filled with intellectual and theological tension. This part of this Perspective does *not* deal with how capital punishment is practiced in the United States or any other country. Instead, the focus is on whether one can make a biblical defense of it as a responsibility of the state. If humans bear God’s image (Genesis 1:26-27), then taking the life of an image-bearer in a premeditated act of murder ethically demands just punishment. Killing a human being is an attack on the creator God. It is a rejection of His sovereignty over human life (see Deuteronomy 32:39). But is it just to make the punishment capital? There are several key biblical passages that make the case for capital punishment as a just obligation of the state:
 1. **Genesis 9:6.** As Noah exits the ark, God establishes a new relationship with the human race and a new code on which to base human relationships. Because of the Flood’s destruction of all life, future generations might conclude that life is cheap to God and assume that humans can do likewise. However, the covenant affirms the sacredness of human life and that murder is punishable by losing one’s life. The text, therefore, institutes the principle of *talionic justice*, or law of like punishment. It is not a harsh principle of justice, for it establishes the premise that the punishment should fit the crime. It is summarized elsewhere in God’s Word as “an eye for an eye and a tooth for a tooth” (Exodus 21:23-25). The point of the Noahic covenant is that God removes from the families of the deceased the responsibility of justice and places it in the hands of human government, thereby eliminating issues of personal revenge and emotional anger.

2. **The Mosaic Law.** God's moral law revealed to Moses was not the first time God delegated the authority of capital punishment. It is central to Genesis 9:6 and is clearly implied in Genesis 4 in His dialogue with Cain (see especially verses 10 and 14). What God did with the Mosaic law was broaden the responsibility to include many other offenses: murder (Exodus 21:12; Numbers 35:16-31; working on the Sabbath (Exodus 35:2); cursing father and mother (Leviticus 20:9); adultery (Leviticus 20:10); incest (Leviticus 20:11-12); sodomy (Leviticus 20:13, 15-16); false prophesying (Deuteronomy 13:1-10, 18:20); idolatry (Deuteronomy 21:18-21); rape (Deuteronomy 22:25); keeping an ox that has killed a human being (Exodus 21:29); kidnapping (Exodus 21:16); and intrusion of an alien into a sacred place (Numbers 1:51, 3:10, 38, 17:7). The form of execution was normally stoning or burning.

3. **Romans 13:1-7.** Verse 4 is the key verse in this critical section on the authority of the state in our lives. It gives the state the authority to wield the "sword" in its role as the punisher of evil: "he [the civil ruler] bears not the sword in vain; for he is the minister of God, an avenger to execute wrath upon him that doeth evil." The word used for sword here is *machaira*, which refers not only to a sword used in battle, but also to a sword used in executions, as when Herod killed James, the brother of John, in Acts 12:1-2. Paul's use of this word gives strong support to the state receiving from God the authority to execute. It gives no help in deciding which crimes are punishable by capital punishment.

In summary, the principle of talionic justice, implied in Genesis 4:10, 16, was clearly instituted in Genesis 9:6 and reaffirmed quite broadly in the Mosaic Law. It is likewise power delegated to the state according to Romans 13:4. The New Testament did not negate the Old Testament standard of capital punishment. Instead, the continuity of the Testaments is affirmed.

4. **Is Capital Punishment a Deterrent?** Both the criminal justice system and theologians are divided as to whether capital punishment deters criminal behavior. But, from the perspective of Scripture, this is beside the point, for it is always presented as a matter of justice, not deterrence.

The view of capital punishment defended here gives focus to the fundamental biblical reason for capital punishment; namely, killing an image bearer of God demands the life of the murderer based on the principle of talionic justice. Whether this form of justice deters further murders is almost irrelevant to the issue. Justice demands payment and the universal and binding principle that God instituted in Genesis 9:6 is as applicable today as it was in Noah's day.

See *Wikipedia* article on capital punishment for the facts and statistics presented here. Also see Roy D. Adler and Michael Summers, *Wall Street Journal* (2 November 2007) and James P. Eckman, *Biblical Ethics*, pp. 69-70.