

Lecture 20 – The Death Penalty & the Just War

Cain said to the LORD, “My punishment is more than I can bear. Today you are driving me from the land, and I will be hidden from your presence; I will be a restless wanderer on the earth, and whoever finds me will kill me.” But the LORD said to him, “Not so ; if anyone kills Cain, he will suffer vengeance seven times over.” Then the LORD put a mark on Cain so that no one who found him would kill him. Genesis 4:13–15 (NIV)

For he is God’s servant to do you good. But if you do wrong, be afraid, for he does not bear the sword for nothing. He is God’s servant, an agent of wrath to bring punishment on the wrongdoer. Romans 13:4 (NIV)

Key Terms

Punishment, human life, sacred, image of God, justice, retribution, God-given responsibility

Objectives

- *Identify and express the position of your own Christian tradition on the issue of capital punishment.
- *Explain the ethical and biblical relationship between the issue of capital punishment and the just war.
- *Build a biblical case for (or against) capital punishment.
- *Respond biblically to objections to the death penalty.

The Death Penalty & the Just War

I. Capital Punishment

Modern anti-death penalty proponents

Beccaria

Melton, *The Churches Speak on Capital Punishment*

Darrow

NCC (see handout)

Abolished in Europe

Melton and Chessman case

A. Position of Protestant Churches

1. Abolition of the death penalty

1956 United Methodist Church

1956 United Church of Canada

1957 Christian Church (Disciples of Christ)

1957 Church of the Brethren

1958 American Baptist Churches in the USA

1958 Episcopal Church

1959 Union of American Hebrew Congregations [Reform Judaism]

1965 Presbyterian Church in the USA

1965 Reformed Church in America

1966 Evangelical Lutheran Church in America

1968 National Council of Churches [see handout, which contains 10 reasons]

1969 United Church of Christ

2. Retention of the death penalty

1972 National Association of Evangelicals [for premeditated capital crimes]

1976 Lutheran Church--Missouri Synod [right, but not mandatory]

National Association of Free Will Baptists [for murder & rape]

1981 Christian Reformed Church in North America [exceptional instances]

“Capital punishment should not pertain to the routine administration of justice, but only to those exceptional instances of such administration as are called forth by a substantial threat to the foundation and structure of a free and responsible democratic society, and thus to the safety and welfare of the people....”

“Given that human life is sacred, that the magistrate if fallible, that time for repentance is desirable, and that imprisonment will normally satisfy the demand for justice, we conclude that, though judicial executions may sometimes be divinely sanctioned and be in society’s best interest, it is not desirable that capital punishment be routinely inflicted upon persons guilty of murder in the first degree. Only under exceptional circumstances should the state resort to capital punishment.”

B. The Roman Catholic Church

1. Catechism of the Catholic Church (1994)
 - a. Bloodless means are preferable
2. *Evangelium vitae* (1995)
 - a. Capital punishment is legitimate only in cases of “absolute necessity.”
3. Pope John Paul II (1999)
 - a. Move to an absolute position
 - b. *Donum vitae* (1987)
 - c. Exodus 23:7
 - d. Development of doctrine

C. Biblical warrant

1. Genesis 4:13-15
 - a. Cain and Abel
 - b. John Murray
2. Genesis 9:6
 - a. Post-flood
 - b. Punitive/retributive justice
 - c. Statement of fact or command?

The following three points are not on the tape lecture:

- d. Not simply “I will require” but “at the hand of man’s brother “will I require it.
- e. Reference to the image of God gives the reason; reference to victim or avenger?
Either way, capital punishment is grounded in the nature of man.
- f. Subsequent references require putting to death by the avenger of blood (Num 35:16-21).
 - 1) What about perpetuity?
 - a) Leviticus 17:11
 - b) Permanent validity
 - c) Unique

3. Romans 13:4

- a. Authority to inflict death penalty
- b. Romans 13:1-7
- c. 1 Peter 2:13-17
- d. Civil magistrate
- e. Matthew 16:52b
- f. Acts 12:2
- g. Romans 8:35
- h. Revelation 6:4

D. Contemporary application

1. Gordon Clark
 2. CRC Report
 3. OT safeguards (Numbers 35)
 4. Justice demands:
 - a. Consistency
 - b. Impartiality
 - c. Due process
 - d. Proof of guilt
 5. Contemporary American problems
- E. Objections to the Death Penalty (*these points are not on the tape lecture*)

1. It violates the 6th commandment.

“The clear intent of the Ten Commandments is not to forbid all killing, but the type of killing which can be considered murder” (CRC, 90). Human life is sacred to God and may never be taken without divine warrant. It is warranted in the case of murder. “It points to the extreme seriousness and the grave nature of the crime committed by a murderer” (CRC, 90). The punishment is proportionate.

2. It ignores the atoning work of Christ.

Christ has already paid the supreme penalty. Confuses the issues of justification and public justice. We are taught to forgive those who wrong us, but that is not the office of the state which God calls to administer public justice. Seasoned with mercy, to be sure, so that not every case requires the death penalty as an absolute obligation. Mitigating circumstances may be taken into account. If the state commutes the sentence of death, it absorbs the effect. There may be instances where this cannot be done without offence to both justice and prudence.

3. It contradicts the principle of Christian love.

“The issue or question is not what mercy or love demands, but what justice demands. Justice must be true justice—it must take into account particular circumstances and conditions. Love requires that it do so. But when extenuating circumstances have been taken into account, it is then a love-inspired justice and not a love void of justice—which must be followed” (CRC, 92).

4. It is inherently unjust.

“Under the concept of proportionality we believe retributive justice would not permit capital punishment in all cases of premeditated murder, but that it would in some. It is impossible to draw an exact line between permissible and impermissible use of capital punishment since the variety of circumstances are infinite. Each case must be considered on its own. Nevertheless, to say it is inherently and necessarily unjust to require that one forfeit his life in cases of even the most heinous, cold-blooded killings is clearly not warranted” (CRC 93).

5. It preempts God’s prerogative.

Distinguish between the calling of the church (Rom 12:17-19) and the calling of the state.

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II. Justifiable Warfare

WCF, chapter 23.2

Romans 13

A. Well-defined conditions

1. Genesis 14

B. Private citizens versus public authorities

1. Romans 12:14-21

2. Romans 13:1-7

C. Distinguished from:

1. Passivism
2. Holy war
3. Blind obedience to authority
4. War hysteria
5. Militarism

D. Justice is a social form of neighbor love

E. Distinguish between justification for war and just conduct in war

1. Legitimate authority
2. Just cause
 - a. Defensive
 - b. Offensive: Judges 18:28
3. Right intention
4. Last resort
5. Probable success
6. Principle of discrimination
7. Principle of proportionality