

# *The Doctrine of Capital Punishment*

Charles C. Ryrie

Capital punishment, like so many controversial subjects, has ramifications in many fields of thought and practice. Its implications reach into the fields of penology, sociology, law, justice, but above all, theology. Anything that touches life and death is, after all, theological, and any meaningful discussion must be so oriented. Indeed, one's theological viewpoint (or, more broadly, his philosophical orientation) will slant, if not settle, his attitude toward such a matter as capital punishment.

Capital punishment is defined as "the death penalty for crime." The concept includes the ideas that a crime has been committed and thus the person executed is guilty. It also assumes that the government that carries out the sentence has been duly constituted (though the form of that government may vary). The specific crimes to which capital punishment applies cannot be stated in a definition, for this is really a separate question. The only matter to be considered is whether or not the principle of capital punishment is authorized by the Scripture today.

## THE CURRENT DEBATE

The arguments advanced today against the legitimacy of capital punishment are usually along these lines. Capital punishment cannot be harmonized with the love of God. The Christian gospel seeks the redemption of evil-doers which is the exact opposite of all that is involved in capital punishment. Jesus, one is told, "always recommended life and forgiveness over death and condemnation."<sup>1</sup> This

<sup>1</sup> John W. Sloat, "Let's Abolish Capital Punishment," *Pulpit Digest*, January, 1970, p. 46.

is, generally speaking, a view that is an outworking of liberal theology which conveniently ignores Jesus' teaching about condemnation (Matt. 5:21-26; 10:28; 12:32). It is often related to a societal redemption, rather than an individual redemption.

However, it is true that evangelicals are sometimes opposed to capital punishment for reasons unrelated to theology, such as the alleged impossibility of administering the matter fairly.<sup>2</sup>

Humanitarianism and the dignity and worth of society are other bases for decrying capital punishment. Albert Camus asks for sympathy to be shown for the family of the victim of capital punishment stating that the death penalty strikes at the innocent (i.e., the family of the criminal). Ramsay Clark (while Deputy Attorney General) stated that "this nation is so great in its resources and too good in its purposes to engage in the light of recent understanding in the deliberate taking of human life as either a punishment or a deterrent to domestic crime."<sup>3</sup> Coupled with these arguments is the continuous debate on the question of whether or not capital punishment is a deterrent to crime.<sup>4</sup> Perhaps the arguments against capital punishment (especially in a religious context) are best summarized in a resolution adopted in 1960 by the American Baptist Convention. It said:

Because the Christian believes in the inherent worth of human personality and in the unceasing availability of God's mercy, forgiveness, and redemptive power, and

Because the Christian wholeheartedly supports the emphasis in modern penology upon the process of creative, redemptive rehabilitation rather than on punishment and primitive retribution, and

Because the deterrent effects of capital punishment are not supported by available evidence, and

Because the death penalty tends to brutalize the human spirit and the society which condones it, and

Because human agencies of legal justice are fallible, permitting the possibility of the executing of the innocent,

We, therefore, recommend the abolition of capital punishment and the re-evaluation of the parole system relative to such cases.<sup>5</sup>

2 "After Capital Punishment, What?" *United Evangelical Action*, May, 1965, p. 17.

3 For these and other statements like them, see Gerald H. Gottlieb, "Capital Punishment" *Crime and Delinquency*, XV (January, 1970), 2-11.

4 See *The Death Penalty in America*, ed. by Hugo Adam Bedau (Garden City, NY, 1964), especially chapter 6.

5 Cited in "The Argument against the Death Penalty," *The Death Penalty in America*, ed. Hugo Adam Bedau (Garden City, NY, 1964), pp. 167-68.

On the other hand, many still argue for capital punishment. Five reasons for saying that the opposition to capital punishment is not for the common good are that such opposition "sides with evil; shows more regard for the criminal than the victim of the crime; weakens justice and encourages murder; is not based on Scripture but on a vague philosophical system that makes a fetish of the idea that the taking of life is wrong, under every circumstance, and fails to distinguish adequately between killing and murder, between punishment and crime."<sup>6</sup> In this statement the author has touched the heart of the issue: what does the Scripture teach? One's ethics are always based on one's philosophy or theology which is ultimately related to one's view of the authority of the Bible. Although there can be honest difference of opinion between those who hold to the authority of the Bible, there can be no true light on any subject without trying to discover what the Bible says; and this is certainly true of the issue of capital punishment.

#### THE TEACHING OF SCRIPTURE

*Genesis 9:6.* That this verse established the principle of capital punishment is in itself not debated. Murder is clearly to be punished by death because of the sanctity of human life. The foundation for this drastic punishment is the fact that man was made in the image of God; therefore, when violence in the form of murder is done to a man, it is in effect an outrage against God. How punishment is to be carried out is stated to be "by man" — thus leaving some flexibility as to the actual instrumentality of punishment. But that the principle extends to the entire race seems apparent from the simple fact that Noah, to whom it was given, stood at the head of a new beginning of the human race. What was given to Noah (like the permission to eat meat and the promise of no further flood) was not confined to any group or family or cult.

*The Mosaic Law.* The death penalty was also incorporated into the Mosaic code with a very significant difference. Whereas Genesis 9:6 only sanctions it in cases of murder, the Mosaic code required it for other offenses. The list was as follows: murder (Exod. 21:12; Num. 35:16-31), working on the Sabbath (Exod. 35:2), cursing father or mother (Lev. 20:9), adultery (Lev. 20:10), incest (Lev. 20:11-13), sodomy (Lev. 20:15-16), false prophesying (Deut. 13:1-10; 18:20), idolatry (Deut. 17:2-7), incorrigible juvenile delinquency (Deut. 21:18-23), rape (Deut. 22:25), keeping an ox

6 Jacob J. Vellenga, "Is Capital Punishment Wrong?" *Christianity Today*, October 12, 1959, p. 7.

known to be dangerous if the ox had killed a human being (Exod. 21:29), kidnapping (Exod. 21:16), and intrusion of an alien into a sacred place or office (Num. 1:51; 3:10, 38; 18:7). The manner of execution is sometimes mentioned (such as stoning or burning); where it is not indicated, one is left entirely to conjecture as to what was used.

*John 8:1-11.* Although there is a critical problem concerning the genuineness of this passage to the text of Scripture, most scholars agree that this records a true incident in the life of Christ, and it is often used by opponents of capital punishment as indicating His abolition of it. Certain facts seem to be clear in the passage: (1) the Lord recognized the Mosaic command to stone adulteresses, for He invited anyone qualified in the crowd to begin the process (v. 7); (2) He Himself declined to do it because He alone could exercise the prerogative of forgiving her (v. 11); and (3) if He in the process also suspended or abrogated the death penalty by His action in this case, it can be used to teach such suspension in cases of adultery only. The incident does not speak to the question of the abolition of the death penalty in cases of murder.

*Romans 13:1-7.* Several important principles are established or reaffirmed in this passage: (1) human government is ordained by God (v. 1), yet it is a sphere of authority that is distinct from others like that of the home or the church; (2) human government is to be obeyed by the Christian because it is of God, because it opposes evil (v. 4), and because our consciences tell us to obey (v. 5); (3) the government has the right of taxation (vv. 6-7); and (4) the government has the right to use force (v. 4), and this, of course, is the principle which impinges on our subject. The question is, what is included in its right to "bear the sword?"

Some understand that the sword does not mean the authority of government to practice capital punishment, but they negate that authority on the basis of phrases which precede and follow in the context, such as "recompense to no man evil for evil," "avenge not yourselves," and "love worketh no ill to his neighbor."<sup>7</sup> The exegetical difficulty with doing this is simply that it fails to recognize that these exhortations are directed to the individual in relation to his responsibility to other individuals within the body of Christ, while the teaching concerning the government's bearing the sword is in an entirely different context of group action and responsibility.

7 Charles S. Milligan, "A Protestant's View of the Death Penalty," *The Death Penalty in America*, ed. by Hugo Adam Bedau (Garden City, NY, 1964), p. 178.

Others feel that the sword does not necessarily include capital punishment in its representation. It may, for instance, simply mean a policeman's pistol, and though it means that a governmental officer can bear arms, a court probably has no right to pass the death penalty.<sup>8</sup>

Others unhesitatingly state that "the sword is the symbol of the magistrate's power to put to death."<sup>9</sup> While it is true that "the sword" may also include other rightful restraints in the proper function of government (like fines, imprisonment, confiscation of property), it clearly includes execution of the death penalty. The word sword is significant, for the term "denotes (in opposition to . . . the poniard or straight-edged sword) a large knife with bent blade, like that carried by the chiefs in the *Iliad*, and with which they cut the neck of the victims, similar to our *sabre*. Paul by this expression does not here denote the weapon which the emperor and his pretorian prefect carried as a sign of their power of life and death, — the application would be too restricted, — but that which was worn at their side, in the provinces, by the superior magistrates, to whom belonged the right of capital punishment, and which they caused to be borne solemnly before them in public processions."<sup>10</sup> Godet goes on to point out, as have others, that it is impossible to exclude from the right of punishing the kind of punishment which the emblem (the sword) represents. If this verse only teaches the right of capital punishment without the practice of it, then presumably taxation, mentioned in the following verses, is only a symbol of the authority and does not refer to the actual taking of money from people. That, of course, is an impossible interpretation. Likewise, it is inconceivable to consider this verse as teaching only the government's right to use capital punishment without the actual exercise of that right.

In summary, it may be said that Romans 13:4 does teach the right of government to take the life of a criminal (in what cases is not specified). The only possible modification of the use of this principle cannot be on the basis that it is unscriptural or

8 Dwight Ericsson, "The New Testament Christianity and the Morality of Capital Punishment," *Journal of the American Scientific Affiliation*, XIV (September, 1962), 77-79. See also the weak interpretative paraphrase of the *Living New Testament* at Romans 13:4. "The policeman is sent by God to help you."

9 William G. T. Shedd, *A Critical and Doctrinal Commentary upon the Epistle of St. Paul to the Romans* (New York, 1879), p. 328.

10 F. Godet, *Commentary on St. Paul's Epistle to the Romans*, trans. by A. Cusin (Edinburgh, 1881), II, 311.



unchristian but unnecessary if the government can fulfill by other means its God-appointed mandate to be a terror to evildoers and an executor of wrath on those who do evil (which is quite debatable).<sup>11</sup> But the prerogative of capital punishment, established in Genesis 9:6, elaborated in the Mosaic code, not done away with in the teaching of Jesus, is affirmed in the doctrinal portion of the New Testament.

#### SOME QUESTIONS

*A Biblical Question.* Does the sixth commandment, "Thou shalt not kill" (Exod. 20:13) abrogate the principle of capital punishment? The verb used in this verse occurs 49 times in the Old Testament and in every relevant use means "to murder," especially with premeditation. It is never used of animals, God, angels, or enemies in battle.<sup>12</sup> The New Testament always translates the sixth commandment with *phoneuo* which is never used in any other sense than "to murder." The penalty for breaking the commandment was death (Exod. 21:12; Num. 35:16-21). One can conclude that when the theocracy took the life of a murderer (i.e., one who violated this sixth commandment), the state (and particularly those who actually performed the execution) was not guilty of murder. Furthermore, God's commanding Israel to kill their enemies during the conquest of Canaan could not have been a violation of this commandment either by God or by the individual soldiers who killed in battle. They were the instruments of the execution of divine judgment and not violators of the sixth commandment.<sup>13</sup>

*A Theological Question.* Does an approach to the Scriptures that recognized the progress of revelation or dispensational distinctions forbid the use of Genesis 9:6 as a guideline for today? There are only two ways that the answer could be yes. One is if in the progress of revelation the New Testament declared a new ethic which would replace the Old Testament ethic concerning capital punishment. But it was already seen that neither the Lord nor the apostles introduced a replacement ethic for capital punish-

11 See W. Sanday, "The Epistle to the Romans," *A Bible Commentary for Bible Students*, ed. by Charles John Ellicott (London and Edinburgh, n.d.), VII, 256.

12 Of the 49 occurrences 36 are in the Pentateuch and Joshua related to laws regarding murder and manslaughter. Of the remaining 13, 2 involve an abstract use in the nominal form (Ps. 42:19; Ezek. 21:22), 2 are quotations of the command (Jer. 7:9; Hos. 4:2), and the remainder mean murder.

13 The commandment is without an object and thus includes a prohibition against taking one's own life.

ment; indeed, they did not disturb the Old Testament standard concerning this matter (John 8:1-11; Rom. 13:1-7).

The other way would be to understand that the ending of the Law in the New Testament carried with it the end of capital punishment which was an integral part of the Law. Dispensationalists are strong in their insistence that the Law has been done away with in Christ (2 Cor. 3:7-11). This, of course, would mean that the capital punishment *that was part of the Mosaic Law* was superseded by the law of grace, but by no stretch of any dispensational imagination could this include Genesis 9:6. Dispensational distinctions do recognize that the law of capital punishment for certain crimes was done away with in Christ, but this does not include capital punishment for murder. If the New Testament gave a replacement for the standard of Genesis 9:6, then it would no longer be valid. But since it does not, then the dispensational teaching concerning the end of the Law is irrelevant to Genesis 9:6, and the principle of that verse apparently still applies today.

*A Practical Question.* What, after all, is the purpose of capital punishment? Numerous answers have been given and debated, but ultimately the biblical purpose seems to be the promotion of justice by civil government. It is the purpose of government to punish those who do evil (2 Pet. 2:13), and capital punishment is evidently one of the ways this purpose is to be promoted. This raises the question of whether or not capital punishment is really a deterrent to crime? Great Britain's experience indicates that it is. "There has been a sharp rise in armed robberies and violent crime throughout Britain since 1965, when the death penalty was dropped, and more criminals seem to carry guns now."<sup>14</sup>

J. Edgar Hoover adds his experienced appraisal: "The professional law enforcement officer is convinced from experience that the hardened criminal has been and is deterred from killing based on the prospect of the death penalty."<sup>15</sup>

In the view of these experts, at least, capital punishment does serve a purpose which is necessary to government carrying out its God-ordained function. Without it the sword of government would be sheathed.

14 Felix Kessler, "The Gun," *The Wall Street Journal*, June 6, 1972, p. 1.

15 J. Edgar Hoover, "Statements in Favor of the Death Penalty," *The Death Penalty in America*, ed. by Hugo Adam Bedau (Garden City, NY, 1964), p. 134.