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Theologian Dale Recinella Responds to Biblical Justification of Death Penalty

Posted by Dale S. Recinella, J.D., M.T.S, Guest Blogger on March 29th, 2011

My dear Christian friend, Mr. Robert Michaels:

I read your 03/25/2011 01:03:32 AM PDT post in the *Vallejo Times Herald* concerning the Bible and the death penalty. Thank you for your sincere and conscientious interest in the issue of the death penalty. Perhaps because of my extensive writing and speaking in the area of the American death penalty and religion, especially Christian religion, it is proper for me to address you on this subject.

You have indicated that you are of the opinion that people of biblical faith must, after all is said and done, support what is required by the Bible. I agree. For decades I supported the American death penalty. My support was based upon what I *thought* was in Holy Scripture. And you and I are not alone in that. The reason, I think, that over 86% of all the executions in the U.S. in the last 33 years have occurred in the Bible Belt is because good, Bible-believing people believe that the Bible requires it. That was why I supported it.

Well, I'm also a lawyer. After many years as a corporate lawyer God called me and my wife to ministry. Now, with 13 years of ministry to the families of murder victims, to men being executed, to families of the executed, and to staff at Florida's death row prison, I have had to dig back into the Scriptures much more deeply than I had before in order to find out exactly what God is expecting of us.

My conclusion is that God expects our society to punish wrongdoing-you may use the word retribution and that's a fine word by my reading of the Bible. There must be consequences for choosing to do harm to society, to people and to property. And it must be just punishment or those who are not motivated by grace will scoff at the law and run roughshod over the innocent.

That brought me to the next question, what is just punishment?

Let's say a criminal commits a crime that causes someone to be burned over half their body, or causes a person to be blinded, or to lose a limb. Does the justice required by Scripture mean that we have to take that criminal and burn half his body, or blind him or sever his limbs? We might *want to*-but that's not the question. The question is does God's Word *require* such a burning or blinding or maiming in order for the punishment to be just? Virtually all Christians agree that it does not. Time to be spent in prison is the just punishment.

So, then, what if the crime committed involves the taking of human life? Is the killing of the criminal the only just punishment allowed by Scripture? I do not think so. I think life in prison without possibility of parole is punishment that fully grants retribution for the evil done. And, you and I do not have to become killers ourselves in order to carry out

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that punishment.

You have looked to **Paul's Epistle to the Romans 13:3-4** to confirm God's mandate for capital punishment:

"But if thou do that which is evil, be afraid; for (government) beareth not the sword in vain: for (government) is the minister of God, a revenger to execute wrath upon him that doeth evil." *Authorized King James Version.*

The two critical words here are *sword* and *execute*. If government bears the *sword* as God's minister to *execute* offenders, it sounds like a scriptural mandate ("command") for capital punishment. Is it?

There are distinctly different Greek words that translate into English as *sword*. *RHOMPHAIA* means a saber, a long and broad cutlass, a broadsword. This is the instrument used for decapitation, capital punishment by sword. As a Roman citizen, Paul had the right to be executed by broadsword and not by crucifixion. My bet is that Paul knew the Greek word for the sword used for capital punishment. This is not the word used in the Greek in **Romans 13:4**.

MACHAIRA, the Greek word used in **Romans 13:4**, means a short sword worn on the belt, a *dagger*. This is not the instrument used for decapitation, but was used as a metaphor for the authority of the courts to inflict punishment in general.

Also, the word *execute* is not in the original Greek scriptures of this verse. The word *execute* has been inserted by the translator into the *Authorized King James Version* to provide a verb so the sentence makes sense in English. The Greek original does not have this verb. The English translation uses it as a synonym for *bring* or *inflict*. Because the word "execute" is not in the original Greek but is inserted by the English translators, it appears in italics in most editions of the *Authorized King James Version*.

Given these two facts of the original Greek of the Scripture verses, the verse in **Romans 13:4** makes complete sense in English without the death penalty.

But if thou do that which is evil, be afraid; for government beareth not the power of judicial punishment in vain: for it is the minister of God, a revenger to carry out wrath upon him that doeth evil.

The verse is a mandate for retributive punishment on evildoers; but it contains no mandate for the death penalty. Rather, it supports the power of legitimate government by judicial authority to impose punishment for crimes.

You also quote **Genesis 9**, the so-called *Rule of Blood* as God's mandate for capital punishment. That verse reads:

"Whoever shed the blood of man, by man shall his blood be shed; for in the image of God has God made man." *New International Version* This verse is included in God's blessing of Noah and his family. **Genesis 9:1-7**

A quick reading of this verse without study could create the impression that the *Rule of Blood* is God's command that the entire world must use the death penalty; however, there are some major problems with that conclusion.

First, the text is in poetic form which was never used for biblical law.

Second, American Christians only intend to treat this as God's command for capital punishment in the case of first-degree murder. But if these verses are actually God's command to execute those who take human life, there is no basis for any limitation in the text itself. If God is commanding the use of executions in these verses, then their plain reading seems to cover all taking of human life: accidents, negligent homicide, even self-defense. To my knowledge, no Christians in America support such broad mandate for the application of the death penalty under the *Rule of Blood*. Yet, there is no Scriptural basis for applying it at all unless it is unlimited. There is no intellectual integrity in claiming it is God's mandate and then rewriting it to our liking.

Third, there is no rational basis to explain why the words in the *Rule of Blood* are God's explicit command to be followed literally, but the other portions of this set of verses, called the Noahic blessing, are not to be taken literally or treated as binding law: e.g., the prohibition on consumption of rare meat, or the statement that any animal which kills a human must be executed.

Finally, if the *Rule of Blood* is indeed God's command, God's perfect will, that anyone who kills another human being must be executed, God would surely apply this uniformly because God is infinitely just. Consequently, a prominent first-degree, premeditated murderer after the blessing of Noah's family but before the handing down of the Mosaic Law would have to be executed.

What does the Bible report as God's punishment for the most significant and prominent first-degree murderer during that period, under the *Rule of Blood*?

That person in the Bible is none other than Moses. And God deals with Moses the same way God dealt with Cain: banishment from society. Our modern term for such banishment is prison.

God seems quite consistent in the biblical record of His dealings with Cain and Moses. And He did not execute either one.

You also have used the Crucifixion of Jesus Christ as biblical support for the American death penalty. You are not alone. Many pro-death penalty people of biblical faith like to quote the following passage from the *Gospel of John* as biblical proof that Jesus supports the death penalty. I used to quote it for that reason as well. The scene is the trial of Jesus before Pilate:

So Pilate said to him, "Do you not speak to me? Do you not know that I have power to release you and I have power to crucify you?"

Jesus answered [him], "You would have no power over me if it had not been given to you from above."

The pro-death penalty biblical argument stops right there and fails to quote the rest of what Jesus said. The entire exchange reads as follows:

So Pilate said to him, "Do you not speak to me? Do you not know that I have power to release you and I have power to crucify you?"

Jesus answered [him], "You would have no power over me if it had not been given to you from above. For this reason the one who handed me over to you has the greater sin." **John 19:10-11**

This full text can hardly be claimed as Jesus' support for capital punishment. *Sin* is not the word used in Scripture to describe an act that is virtuous. In fact, the Scriptures tell us that Pilate's reaction was based upon what Jesus said:

Consequently, Pilate tried to release him." **John 19:12**

The execution of the innocent is no small issue for biblical Christians. **Exodus 23:7** warns us not to be involved with the execution of the innocent. Jesus Christ warns us in the verses quoted above not to be involved in the execution of the innocent.

Yet, as noted in the U.S. Supreme Court majority opinion in *Marsh v. Kansas*, authored by pro-death penalty Justice Clarence Thomas, abolition of the death penalty in the U.S. is the only way to avoid the execution of the innocent. (Slip opinion at p. 17) In a concurring opinion, Justice Scalia attacks any concern about execution of the innocent. First, he implies that such a concern would in fact end the death penalty in the U.S. Then he says: "Like other human institutions, courts and juries are not perfect. One cannot have a system of criminal punishment without accepting the possibility that someone will be punished mistakenly. That is a truism, not a revelation." (Concurring opinion, at p. 19)

Such a truism when the penalty is years in prison may not rise to the level of biblical condemnation. But as shown above, that truism is soundly condemned by Scripture when the penalty is death.

Those pro-death penalty positions of Justices Thomas and Scalia cannot be supported as biblical positions. Those are mere political positions. The Bible rails against the execution of the innocent.

True scholars of the Bible know this. On May 22, 2008, I appeared on a radio show on Inter-Faith Voices opposite Dr. R. Albert Mohler Jr., President of the Southern Baptist Theological Seminary in Louisville, KY. The moderator addressed him with the first question:

Moderator: "Just to clarify your position, do you argue that a state or a nation must have the death penalty or that it is morally permissible if it so chooses?"

Dr. Mohler responded correctly:

"... I would not say that it is absolutely mandated that a society must do this. But certainly it is permissible...."

In his next answer, Dr. Mohler, went on to qualify that permissibility:

Moderator: "So, you would see it [the death penalty] as preferable, perhaps?"

Dr. Mohler: "Yes. With all the conditions being met for the penalty to be just in its application. With all the right kind of structures for the right conducting of trial and the establishment of guilt and all the rest."

Dr. Mohler's answer was exactly correct. The problem is that with respect to the U.S. death penalty those conditions are not met, the right kind of structures do not exist, and the biblical standard of absolute certainty of guilt is not the standard for execution in any U.S. system: federal, military or state.

Mr. Michaels, my biblical studies in this area led me to actually reconstruct the death penalty in the Bible the way a lawyer would-procedural and substantive law. I identified 44 absolute legal requirements of the biblical death penalty in order to comply with the dictates of Scripture. Then, I took the American death penalty and compared it to the list. **We are zero for 44!**

The only possible conclusion based upon what is actually in the Bible and the Scriptural requirements for permissible use of the death penalty is that we cannot support the U.S. death penalty with the Bible. There is a death penalty in the Bible-but it has nothing to do with what we are doing in America. And we cannot use the Bible to support the American death penalty.

I would not expect you or anyone else just to take my word for it. That is why I wrote the scholarly book: *The Biblical Truth about America's Death Penalty*. It is available on Amazon. Please read it and then I look forward to your questions and your comments.

My dear Christian friend, God bless you, protect you and keep you strong.

Yours faithfully,

Dale S. Recinella, J.D., M.T.S.
Catholic Lay Chaplain
Florida Death Row

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COMMENTS

Comments are now closed for this item.

1. *Comment by Robert Baldwin, MD, Mar 29th, 2011 11:54am*

Amen, and I heartily recommend his book to all interested in the truth regarding Biblical sanction for the death penalty.
Robert Baldwin, MD, MA