

History of Catholic Theological Thought on The Death Penalty

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One of the most common death penalty supports we hear is" It's in the bible, 'an eye for an eye and tooth for a tooth'" First of all, the "eye for an eye" was really a limitation on punishment. Prior to that, extreme punishment was permitted for minor offenses. Let's first take a look at what Scripture says. The eye for an eye is found at: Ex 21: 22-24; Lv 24:19; DT 19:16-21

EX 21: 21-24:: When men have a fight and hurt a pregnant woman, so that she suffers a miscarriage, but no further injury, the guilty one shall be fined as much as the woman's husband demands, and he shall pay in the presence of judges. But if injury ensues, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, bum for bum, wound for wound, stripe for stripe" To be consistent, one should then follow ALL the ordinances of Exodus: In 21, verse 17 it says" Whoever curses his father or mother shall be put to death" there goes the teenage population. In Ch 22, verse 20, it provides that if you molest or oppress an alien, or if you wrong a widow or orphan, God's wrath will flare up" and I will kill you with the sword.

LV 24:19 the subject is blasphemy, starting at verse 10 and continues to the eye for an eye.
DT 19: 16-21--This involves giving false witness. Keep in mind that many who urge the death penalty are the same prosecutors and police who falsely testified or who submitted false evidence in the cases involving the 12 innocent released from death row. The verses provide that" if an unjust witness takes the stand and find that the false witness has accused his kinsman falsely, the false witness shall receive no pity" a life for a life, an eye for an eye and tooth for a tooth"

Of course, we are all familiar with the" Woman Caught in Adultery" in John 8. In LV 20:10 it provides "If a man commits adultery with his neighbors wife, both shall be put to death", which is the same in DT. 22:22. But in DT 22:20, it provides that if a man marries and discovers she is not a virgin, then SHE shall be stoned to death.

(A)

As Christians, let's consider the NT. In Mt 5:38-39 it says: You have heard that it was said" An eye for an eye and a tooth for a tooth. But I say to you, offer no resistance to one who is evil. In LK. 6: 27-30, we have loving your enemy, doing good to those who hate you and turn the other cheek.

One last comment on the NT. I've been involved in a couple of DP forums with Southern Baptists. They support the DP based on Romans Ch. 13 that says" Let every person be subordinate to the higher authorities, for there is no authority except from God, and those that exist have been established by God. Therefore, whoever resists authority opposes what God has appointed" They don't feel that is inconsistent with the civil disobedience and civil rights movement by Dr. King.

So, how did we get to this position? Why hasn't the DP been opposed by the Church since the beginning? First of all let me say that murder was not a" biggie" for the church's support of the death penalty nor was it the common offense where it was imposed. The big "crime" was heresy!

The most influential factor for the early and widespread acceptance of DP was the Bible, which had 36 capital crimes, 13 were for conduct that offended God. Since there was no established state at the time, DP was sanctioned by the tribal practice of" blood letting". The victims family was invited to take part in the revenge. As **time went one, Christians, as an illegal religion, were the earliest targets of DP.** With the Roman Empire (3 13-450 A.D.) there wasn't a change in attitudes but a switch in targets. There were 65 DP decrees against heretics and 25 against paganism. In 346 AD, there was a vigorous call for eradicating paganism and a justification for killing" outsiders" to make the whole world Christians.

In 385, the execution of Priscillian, was the 1st instance of Christians executing Christians because of doctrinal differences. This was denounced by Martin de Tours. Two generations later (440-461), executions were approved by Pope Leo I. This was the single most intractable problem for Christians for the next 14 centuries.

In 390, troops in Thessalonica were unleashed by the Christian emperor and slaughtered many civilians. St. Ambrose of Milan, forgave the emperor, had him repent. This forged a church-state bond. It was concluded that the hard teachings of Jesus, like taking blows and not responding and forgiveness, were directed to and applied only to clergy.

(B)

We then have the ambivalent legacy of St. Augustine (354-430). In 396 he rejected the idea of force to reject their errors. In 408, he changed his position when his own town rose up against him. The German theologian Schilling wrote in 1910 that you must read Augustine in context. It may be difficult to accurately determine Augustine's position on the death penalty but he constantly intervened to prevent executions, which seems to reflect his personal moral position.

The Crusades increased the justification for killing and violence. At the Synod of Clement (1095), Pope Urban II called for a holy war and promised pardon for all soldiers and the reward of a martyr's crown. With these spiritual benefits, the church had unprecedented armed forces. The Crusades legitimized revenge, taking Christians into an endless cycle of violence. It is within all this history and church/state alliances that the DP became ingrained.

By the 12th century, it was common to execute petty thieves. The DP was used routinely as an instrument of the rich to protect their property from the poor. (The church was aligned with the rich).

When the legate of Pope Innocent III (1198-1216) was murdered, he launched a Crusade (Albigensian) turning the military loose on internal enemies. This resulted in 7000 people massacred. The Lateran Council (1215), Canon 3, made it official church policy to turn heretics over to secular power for punishment. Due to heretics and heresy and involvement with the state, the Church was deeply involved, and committed to justifying the DP. Heresy was the main use of the DP.

By the time of Thomas Aquinas (1225-1274), the use of capital punishment for heresy was no longer subject to discussion or debate. Aquinas was involved with the structure and politics of the Church. The death penalty was deeply entrenched in church policy. In one of his early works, he addressed whether "one sin could be the punishment for another sin" Relying on other writings, he discussed the purpose and nature of punishment. "Punishment is satisfactory in two ways: as payment of a debt and as medicine for preventing sin.

Thomas had two celebrated treatments of capital punishment. 1st, in *Summa Contra Gentiles* where he argued the defense of the general thesis that it is lawful for judges to inflict capital punishment. He used the analogy of a physician amputating a gangrenous leg because it corrupts the entire body. Uncharacteristic of Aquinas, he dismisses certain Scriptural sections simply as "frivolous arguments" especially MT 13 and the parable of the wheat and weeds.

Ten years later, when he wrote *Summa Theologica*, he addressed the parable as it applied to heretics and stated isolating heretics was not adequate and therefore the parable didn't apply. He stated that amputation, or eradication, of the sinful heretic, is necessary for the common good. These writings of Aquinas, for 6-7 centuries, were destined to become virtually the last word on Catholic punishment by many Catholic moralists. This was done without taking into account the historical development or the church and societal situation of Aquinas.

The 18th Century saw a growing dissatisfaction with DP, continuing into 19th century. In 20th century many countries began to question and then abolish the DP. As an aside, there was the little known Vatican

Death Penalty Statute, passed in 1929, making it a capital offense to attempt to assassinate the Pope. It was secretly abolished in 1969. Certain dates of abolition were: Italy--1948; Germany 1949; Britain-1965; Portugal, tentative 1867, firm in 1967; Spain 1978; Denmark 1978; France 1981; Australia 1885.

In 20th Century, there were seeds of change and movements from centuries of tradition:

Divino Affiante Spiritu--Pius XII

Mystici Corporis Christo- John Paul XTall

Pacem in Terris--John Paul XX[II] "respect and dignity for all persons" In Vatican II, there is Lumen Gentium and Gaudium et Spes, where in Par. 27 it is written " Everyone should look upon his neighbor, without any exception, as another self. Today there is an inescapable duty to make ourselves neighbor of every man. In Par. 28 it says" The teaching of Christ even demands that we forgive injury.. including all our enemies.

Pope John XXIII wrote "It is not the Gospel that has changed, it is that we have begun to understand it better"