

# report PUBLIC JUSTICE

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## **The Death Penalty Assessed** **A Book Review**

The United States is one of only a few countries in the world that continue to uphold the death penalty as part of their criminal justice systems. Is that a good sign or a bad sign about the health and sanity of the United States?

To help answer that question, three editors/authors who worked with Jean Bethke Elshtain at the University of Chicago and the Pew Forum on Religion and Public Life have produced a valuable book, *Religion and the Death Penalty: A Call for Reckoning* (Eerdmans Publishing Co., 2004). The editors are Erik C. Owens, John D. Carlson, and Eric P. Elshtain, all of whom contributed to the writing.

*Religion and the Death Penalty* presents 18 essays both in support of and in opposition to the death penalty. But more than that, the book's essays, whether for or against, offer a wealth of historical, political, legal, and biblical understanding of capital punishment.

The volume is organized in three parts: 1) the perspectives of different faith traditions, 2) theological reflections, and 3) personal commitments and public responsibilities. The third part is the least substantial but includes pieces by public officials and those with close personal connections to the issue, including former New York governor Mario M. Cuomo (opposed) and Supreme Court Justice Antonin Scalia (in support). Contributors to the first two sections include Avery Cardinal Dulles, David Novak, Stanley Hauerwas, Gilbert Meilaender, and J. Budziszewski, to name only five.

Two of the clearest and most persuasive essays in support of the death penalty are those by Meilaender and Budziszewski. Two of the most forceful essays in opposition are those by Hauerwas and jointly by Michael L. Westmoreland-White and Glen H. Stassen. To give you, the reader, a taste of the book through these four essays, I will quote from each of them in the order of their appearance in the book.

**Gilbert Meilaender, "The Death Penalty: A Protestant Perspective"**

"If and when a state inflicts any punishment—and, certainly, the death penalty—on one of its citizens, it is imperative that such action be understood as public, not private, action."

"Christians do want to say that in the death of Christ and the penalty visited upon him we see the 'end' of the temporal order of human life, sustained, as it is, by governmental power. But Christians also want to say that, until God fully manifests that 'end,' he wills the continuation of this temporal order toward the kingdom of Christ. . . . Until the end of history, government exists as God's servant to sustain ordered human life—in part, by fitting punishment of wrongdoers. It is permitted, though not required, that such punishment should, in certain cases, extend even to execution."

"To the degree that in our public life—as a people—we decline to speak of God, it may be that we—as a people—ought not inflict a death sentence. But it will be very unfortunate indeed if, in our debates about the death penalty, we lose the capacity—or are assisted by Protestant theologians to lose the capacity—to articulate clearly the meaning of government, of punishment, and of justice."

**Stanley Hauerwas, "Punishing Christians: A Pacifist Approach to the Issue of Capital Punishment"**

"Our response to the attempt to defeat capital punishment by showing it does not deter is to observe that capital punishment is associated with the wrong crime. If we killed people for stock fraud, for example, there is every reason to believe that capital punishment would deter."

"Yet I am equally sure that we must be careful not to let appeals to forgiveness and reconciliation hide from us the seriousness of punishment and the proper role punishment has, not only for any society but in particular in the church. It is not enough for Christians to say 'forgiveness' if they do not exemplify in their own lives why punishment is a necessary practice if the church is to be the church."

"Christians rightly seek to live in societies that no longer use the death penalty. But Christians—particularly Christians committed to nonviolence—fail themselves and their non-Christian neighbors when they act as if punishment is a problem 'out there.' The world must first see that Christians can form a community that can punish. Only then will the world have an example of what it might mean to be a community that punishes in a manner appropriate for a people who believe that we have been freed by the cross of Christ from the terror of death."

**J. Budziszewski, “Categorical Pardon: On the Argument for Abolishing Capital Punishment”**

“Our brief review of the objections to capital punishment has left the interim conclusion unshaken.

1. In considering whether to grant clemency, the proper question is not whether juries ever err, but whether we have reasonable ground to think that *this* jury has erred in fact.
2. Any deserved punishment, indeed any element of justice, might whet the impulse for revenge. But when a good impulse is perverted, we should fight not the impulse but its perversion; and so with the impulse for justice.
3. Scripture and Christian tradition uphold capital punishment not in contempt for life but in reverence for it. It is *because* man is made in God’s image that Torah decrees that whoever sheds the blood of man, by man shall his blood be shed.
4. Christ did teach personal forgiveness, but he never challenged the need for public justice. Official pardon rightly has conditions which personal forgiveness does not. Not only is punishment compatible with love, it is sometimes demanded by it as the only medicine strong enough to do the offender good.”

“Categorical remission of the [death] penalty for all who deserve death contradicts revealed teaching on the duty of the magistrate and has no warrant in Christian tradition.”

**Michael L. Westmoreland-White and Glen H. Stassen, “Biblical Perspectives on the Death Penalty”**

“Israel’s law codes required that anyone accused of a capital offense could be convicted only on the basis of two or more eyewitnesses whose testimony must agree completely (Num. 35:30; Deut. 17:2-7; Deut. 19:15-20). This is more stringent than the modern American judicial system, which often convicts persons on circumstantial evidence alone.”

“The Sixth Commandment [Thou shalt not kill, Ex. 20:13] by itself (in its original contexts) neither demands nor prohibits capital punishment.”

“Christians who argue biblically for the death penalty base their arguments mostly on Genesis 9:6 and Romans 13 and argue that Jesus teaches nothing relevant or nothing new. Bypassing Jesus in this way is a historical hangover from the Middle Ages, when the church advocated putting heretics to death and ceased basing its teaching on the way of Jesus, adopting other rationalizations instead. . . . Christians who argue biblically against the death penalty usually base their arguments on the teachings and the cross of Christ. We believe this is right . . . .”

—The Editor<sup>©</sup>