**Repentance and Capital Punishment Texts**

The question last week was how the idea of capital punishment might or might not relate to the ideas that God is forgiving, and that, while a person is alive, they have a chance to repent. From last week’s texts, Surah 9:1-6 and Jeremiah 18:5-11, in very different ways, teach that repentance can avert capital punishment. Note, too, that there is a Jewish tradition that, where capital punishment is required, that capital punishment atones for the crime **if** the criminal repents.

The question of how the scriptures relate to capital punishment is similar to the one which launched our discussion of women’s head coverings – it is that of how an ancient rule should be understood and applied in today’s world. Here, however, we are not just talking about religious or moral rulings, but about criminal law. Whereas Islam has traditionally included criminal law in its *shari’ah*, Christianity has usually seen criminal law as something outside the Church’s jurisdiction. Of course, for both, the relationship between the divine law and the state’s law has a long and complex history.

**The New Testament** has very little to say about criminal law, and about capital punishment in particular. Perhaps the nearest is the story of the woman taken in adultery in John 8:

 [**3**](http://biblehub.com/john/8-3.htm)The scribes and the Pharisees brought a woman who had been caught in adultery, and placing her in the midst [**4**](http://biblehub.com/john/8-4.htm)they said to him, “Teacher, this woman has been caught in the act of adultery. [**5**](http://biblehub.com/john/8-5.htm)Now in the Law, Moses commanded us to stone such women. So what do you say?” [**6**](http://biblehub.com/john/8-6.htm)This they said to test him, that they might have some charge to bring against him. Jesus bent down and wrote with his finger on the ground. [**7**](http://biblehub.com/john/8-7.htm)And as they continued to ask him, he stood up and said to them, “Let him who is without sin among you be the first to throw a stone at her.” [**8**](http://biblehub.com/john/8-8.htm)And once more he bent down and wrote on the ground. [**9**](http://biblehub.com/john/8-9.htm)But when they heard it, they went away one by one, beginning with the older ones, and Jesus was left alone with the woman standing before him. [**10**](http://biblehub.com/john/8-10.htm)Jesus stood up and said to her, “Woman, where are they? Has no one condemned you?” [**11**](http://biblehub.com/john/8-11.htm)She said, “No one, Lord.” And Jesus said, “Neither do I condemn you; go, and from now on sin no more.”

On the other hand, the New Testament gives a lot of its narrative space to accounts of capital punishment – the trials and crucifixion of Jesus, the execution of early Christians, and the various trials of Paul. Repentance and forgiveness in the face of capital punishment is seen in Luke 23:

[**32**](http://biblehub.com/luke/23-32.htm)Two others, who were criminals, were led away to be put to death with him. [**33**](http://biblehub.com/luke/23-33.htm)And when they came to the place that is called The Skull, there they crucified him, and the criminals, one on his right and one on his left. [**34**](http://biblehub.com/luke/23-34.htm)And Jesus said, “Father, forgive them, for they know not what they do.” And they cast lots to divide his garments. [**35**](http://biblehub.com/luke/23-35.htm)And the people stood by, watching, but the rulers scoffed at him, saying, “He saved others; let him save himself, if he is the Christ of God, his Chosen One!” [**36**](http://biblehub.com/luke/23-36.htm)The soldiers also mocked him, coming up and offering him sour wine [**37**](http://biblehub.com/luke/23-37.htm)and saying, “If you are the King of the Jews, save yourself!” [**38**](http://biblehub.com/luke/23-38.htm)There was also an inscription over him, “This is the King of the Jews.”

[**39**](http://biblehub.com/luke/23-39.htm)One of the criminals who were hanged railed at him, saying, “Are you not the Christ? Save yourself and us!” [**40**](http://biblehub.com/luke/23-40.htm)But the other rebuked him, saying, “Do you not fear God, since you are under the same sentence of condemnation? [**41**](http://biblehub.com/luke/23-41.htm)And we indeed justly, for we are receiving the due reward of our deeds; but this man has done nothing wrong.” [**42**](http://biblehub.com/luke/23-42.htm)And he said, “Jesus, remember me when you come into your kingdom.” [**43**](http://biblehub.com/luke/23-43.htm)And he said to him, “Truly, I say to you, today you will be with me in paradise.”

There are also striking accounts of God Himself carrying out capital punishment (Acts 5:1-11; 12:20-23). These remind me of Maimonides’ assertion that, since the destruction of the temple in 70 AD, capital punishment through the courts has been abolished. Instead, God will carry out His own death sentences according to His own judgement (*Mishneh Torah: Repentance*, 1)

Before going on to Old Testament and Qur’an texts, it’s worth noting that there is a long history of how this have worked out in legal thought and practice. Here are excerpts from a summary on ‘Judaism and capital punishment’ from the BBC website:

Anyone reading the Old Testament list of 36 capital crimes might think that Judaism is in favour of capital punishment, but they'd be wrong. During the period when Jewish law operated as a secular as well as a religious jurisdiction, Jewish courts very rarely imposed the death penalty. In 1954, Israel abolished capital punishment except for those who committed Nazi war crimes.

The classic Old Testament texts quoted to justify capital punishment are these:

... life for life, eye for eye, tooth for tooth ...

**Exodus 21:23-24**

A man who spills human blood, his own blood shall be spilled by man because God made man in His own Image.

**Genesis 9:6**

The rabbis who wrote the Talmud created such a forest of barriers to actually using the death penalty that in practical terms it was almost impossible to punish anyone by death. The rabbis did this with various devices:

* interpreting texts in the context of Judaism's general respect for the sanctity of human life
* emphasising anti-death texts such as the commandment 'Thou shalt not kill'
* interpreting texts to make them very narrow in their application
* refusing to accept any but the most explicit Torah texts proposing the death penalty
* finding alternative punishments, or schemes of compensation for victims' families
* imposing procedural and evidential barriers that made the death penalty practically unenforceable

The result of this is that there are very few examples of people being executed by Jewish law in rabbinic times.

Basic verses about the penalty for murder:

**Genesis 9** (after the flood):

 [**5**](http://biblehub.com/genesis/9-5.htm)And for your lifeblood I will require a reckoning: from every beast I will require it and from man. From his fellow man I will require a reckoning for the life of man.

[**6**](http://biblehub.com/genesis/9-6.htm)“Whoever sheds the blood of man,
by man shall his blood be shed,
for God made man in his own image.

**Surah 5** (after the Cain and Abel story):

**32** Because of this did We ordain unto the children of Israel that if anyone slays a human being - unless it be [in punishment] for murder or for spreading corruption on earth - it shall be as though he had slain all mankind; whereas, if anyone saves a life, it shall be as though he had saved the lives of all mankind. And, indeed, there came unto them Our apostles with all evidence of the truth: yet, behold, notwithstanding all this, many of them go on committing all manner of excesses on earth.

**33** It is but a just recompense for those who make war on God and His apostle, and endeavour to spread corruption on earth, that they are being slain in great numbers, or crucified in great numbers, or have, in result of their perverseness, their hands and feet cut off in great numbers, or are being [entirely] banished from [the face of] the earth: such is their ignominy in this world. But in the life to come [yet more] awesome suffering awaits them –

**34** save for such [of them] as repent ere you [O believers] become more powerful than they: for you must know that God is much-forgiving, a dispenser of grace.

Legal processes

**Numbers 35:**

[**9**](http://biblehub.com/numbers/35-9.htm)And the LORD spoke to Moses, saying, [**10**](http://biblehub.com/numbers/35-10.htm)“Speak to the people of Israel and say to them, When you cross the Jordan into the land of Canaan, [**11**](http://biblehub.com/numbers/35-11.htm)then you shall select cities to be cities of refuge for you, that the manslayer who kills any person without intent may flee there. [**12**](http://biblehub.com/numbers/35-12.htm)The cities shall be for you a refuge from the avenger, that the manslayer may not die until he stands before the congregation for judgment. [**13**](http://biblehub.com/numbers/35-13.htm)And the cities that you give shall be your six cities of refuge. [**14**](http://biblehub.com/numbers/35-14.htm)You shall give three cities beyond the Jordan, and three cities in the land of Canaan, to be cities of refuge. [**15**](http://biblehub.com/numbers/35-15.htm)These six cities shall be for refuge for the people of Israel, and for the stranger and for the sojourner among them, that anyone who kills any person without intent may flee there.

[**16**](http://biblehub.com/numbers/35-16.htm)“But if he struck him down with an iron object, so that he died, he is a murderer. The murderer shall be put to death. [**17**](http://biblehub.com/numbers/35-17.htm)And if he struck him down with a stone tool that could cause death, and he died, he is a murderer. The murderer shall be put to death. [**18**](http://biblehub.com/numbers/35-18.htm)Or if he struck him down with a wooden tool that could cause death, and he died, he is a murderer. The murderer shall be put to death. [**19**](http://biblehub.com/numbers/35-19.htm)The avenger of blood shall himself put the murderer to death; when he meets him, he shall put him to death. [**20**](http://biblehub.com/numbers/35-20.htm)And if he pushed him out of hatred or hurled something at him, lying in wait, so that he died, [**21**](http://biblehub.com/numbers/35-21.htm)or in enmity struck him down with his hand, so that he died, then he who struck the blow shall be put to death. He is a murderer. The avenger of blood shall put the murderer to death when he meets him.

[**22**](http://biblehub.com/numbers/35-22.htm)“But if he pushed him suddenly without enmity, or hurled anything on him without lying in wait [**23**](http://biblehub.com/numbers/35-23.htm)or used a stone that could cause death, and without seeing him dropped it on him, so that he died, though he was not his enemy and did not seek his harm, [**24**](http://biblehub.com/numbers/35-24.htm)then the congregation shall judge between the manslayer and the avenger of blood, in accordance with these rules. [**25**](http://biblehub.com/numbers/35-25.htm)And the congregation shall rescue the manslayer from the hand of the avenger of blood, and the congregation shall restore him to his city of refuge to which he had fled, and he shall live in it until the death of the high priest who was anointed with the holy oil. [**26**](http://biblehub.com/numbers/35-26.htm)But if the manslayer shall at any time go beyond the boundaries of his city of refuge to which he fled, [**27**](http://biblehub.com/numbers/35-27.htm)and the avenger of blood finds him outside the boundaries of his city of refuge, and the avenger of blood kills the manslayer, he shall not be guilty of blood. [**28**](http://biblehub.com/numbers/35-28.htm)For he must remain in his city of refuge until the death of the high priest, but after the death of the high priest the manslayer may return to the land of his possession. [**29**](http://biblehub.com/numbers/35-29.htm)And these things shall be for a statute and rule for you throughout your generations in all your dwelling places.

[**30**](http://biblehub.com/numbers/35-30.htm)“If anyone kills a person, the murderer shall be put to death on the evidence of witnesses. But no person shall be put to death on the testimony of one witness. [**31**](http://biblehub.com/numbers/35-31.htm)Moreover, you shall accept no ransom for the life of a murderer, who is guilty of death, but he shall be put to death. [**32**](http://biblehub.com/numbers/35-32.htm)And you shall accept no ransom for him who has fled to his city of refuge, that he may return to dwell in the land before the death of the high priest. [**33**](http://biblehub.com/numbers/35-33.htm)You shall not pollute the land in which you live, for blood pollutes the land, and no atonement can be made for the land for the blood that is shed in it, except by the blood of the one who shed it. [**34**](http://biblehub.com/numbers/35-34.htm)You shall not defile the land in which you live, in the midst of which I dwell, for I the LORD dwell in the midst of the people of Israel.”

**Deuteronomy 17**:

 [**6**](http://biblehub.com/deuteronomy/17-6.htm)On the evidence of two witnesses or of three witnesses the one who is to die shall be put to death; a person shall not be put to death on the evidence of one witness. [**7**](http://biblehub.com/deuteronomy/17-7.htm)The hand of the witnesses shall be first against him to put him to death, and afterward the hand of all the people. So you shall purge the evil from your midst.

**Mishnah (cited in *Sanhedrin* 37)**

How does the court intimidate the witnesses in giving testimony for cases of capital law? They would bring the witnesses in and intimidate them by saying to them: Perhaps what you say in your testimony is based on conjecture, or perhaps it is based on a rumor, perhaps it is testimony based on hearsay, e.g., you heard a witness testify to this in a different court, or perhaps it is based on the statement of a trusted person. Perhaps you do not know that ultimately we examine you with inquiry and interrogation, and if you are lying, your lie will be discovered.

The court tells them: You should know that cases of capital law are not like cases of monetary law. In cases of monetary law, a person who testifies falsely, causing money to be given to the wrong party, can give the money to the proper owner and his sin is atoned for. In cases of capital law, if one testifies falsely, the blood of the accused and the blood of his offspring that he did not merit to produce are ascribed to the witness’s testimony until eternity. The proof for this is as we found with Cain, who killed his brother, as it is stated concerning him: “The voice of your brother’s blood [*demei*] cries out to Me from the ground” (Genesis 4:10). The verse does not state: Your brother’s blood [*dam*], in the singular, but rather: “Your brother’s blood [*demei*],” in the plural. This serves to teach that the loss of both his brother’s blood and the blood of his brother’s offspring are ascribed to Cain. The mishna notes: Alternatively, the phrase “your brother’s blood [*demei*],” written in the plural, teaches that that his blood was not gathered in one place but was splattered on the trees and on the stones.

The court tells the witnesses: Therefore, Adam the first man was created alone, to teach you that with regard to anyone who destroys one soul from the Jewish people, i.e., kills one Jew, the verse ascribes him blame as if he destroyed an entire world, as Adam was one person, from whom the population of an entire world came forth. And conversely, anyone who sustains one soul from the Jewish people, the verse ascribes him credit as if he sustained an entire world. . . .

 . . . . The court says to the witnesses: And perhaps you will say: Why would we want this trouble? Perhaps it would be better not to testify at all. But be aware, as is it not already stated: “And he being a witness, whether he has seen or known, if he does not utter it, then he shall bear his iniquity” (Leviticus 5:1)? It is a transgression not to testify when one can do so. And perhaps you will say: Why would we want to be responsible for the blood of this person? But be aware, as is it not already stated: “When the wicked perish, there is song” (Proverbs 11:10)?

**Surah 2**:

**178:** O YOU who have attained to faith! Just retribution is ordained for you in cases of killing: the free for the free, and the slave for the slave, and the woman for the woman.And if something [of his guilt] is remitted to a guilty person by his brother, this [remission] shall be adhered to with fairness, and restitution to his fellow-man shall be made in a goodly manner. This is an alleviation from your Sustainer, and an act of His grace. And for him who, none the less, wilfully transgresses the bounds of what is right, there is grievous suffering in store: **179** or, in [the law of] just retribution, O you who are endowed with insight, there is life for you, so that you might remain conscious of God!

**Surah 5**:

**45** And We ordained for them in that [Torah]: A life for a life, and an eye for an eye, and a nose for a nose, and an ear for an ear, and a tooth for a tooth, and a [similar] retribution for wounds; but he who shall forgo it out of charity will atone thereby for some of his past sins. And they who do not judge in accordance with what God has revealed - they, they are the evildoers!

Some material gathered by Aram

وَإِذۡ قَالَ مُوسَىٰ لِقَوۡمِهِۦ يَٰقَوۡمِ إِنَّكُمۡ ظَلَمۡتُمۡ أَنفُسَكُم بِٱتِّخَاذِكُمُ ٱلۡعِجۡلَ فَتُوبُوٓاْ إِلَىٰ بَارِئِكُمۡ فَٱقۡتُلُوٓاْ أَنفُسَكُمۡ ذَٰلِكُمۡ خَيۡرٞ لَّكُمۡ عِندَ بَارِئِكُمۡ فَتَابَ عَلَيۡكُمۡۚ إِنَّهُۥ هُوَ ٱلتَّوَّابُ ٱلرَّحِيمُ

And ˹remember˺ when Moses said to his people, “O my people! Surely you have wronged yourselves by worshipping the calf, so turn in repentance to your Creator and execute ˹the calf-worshippers among˺ yourselves. That is best for you in the sight of your Creator.” Then He accepted your repentance. Surely He is the Accepter of Repentance, Most Merciful.

**Surah Al-Baqarah, 2:54**

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوٓاْ إِذَا ضَرَبۡتُمۡ فِي سَبِيلِ ٱللَّهِ فَتَبَيَّنُواْ وَلَا تَقُولُواْ لِمَنۡ أَلۡقَىٰٓ إِلَيۡكُمُ ٱلسَّلَٰمَ لَسۡتَ مُؤۡمِنٗا تَبۡتَغُونَ عَرَضَ ٱلۡحَيَوٰةِ ٱلدُّنۡيَا فَعِندَ ٱللَّهِ مَغَانِمُ كَثِيرَةٞۚ كَذَٰلِكَ كُنتُم مِّن قَبۡلُ فَمَنَّ ٱللَّهُ عَلَيۡكُمۡ فَتَبَيَّنُوٓاْۚ إِنَّ ٱللَّهَ كَانَ بِمَا تَعۡمَلُونَ خَبِيرٗا

O believers! When you struggle in the cause of Allah, be sure of who you fight. And do not say to those who offer you ˹greetings of˺ peace, “You are no believer!”—seeking a fleeting worldly gain. Instead, Allah has infinite bounties ˹in store˺. You were initially like them then Allah blessed you ˹with Islam˺. So be sure! Indeed, Allah is All-Aware of what you do.

**Surah An-Nisa', 4:94**

**Hadith:**

**It was narrated that Abu Idris Al-Khawlani said:**

I heard 'Ubadah bin As-Samit say, "I pledged to the Messenger of Allah among a group of people, and he said, *'I accept your pledge that you will not associate anything with Allah, you will not steal, you will not have unlawful sexual relations, you will not kill you children, you will not utter slander, fabricating from between your hands and feet, and you will not disobey me when commanded with goodness. Whoever fulfills (this pledge), his reward will be with Allah, and whoever commits any of these actions and is punished for it, it will be purification for him. Whoever (commits any of these actions and) Allah conceals him, it is up to Allah; if He wills He will forgive him, and if He wills, He will punish him.'"*

**Sunan an-Nasa'i 4178**

**Ubida bin As-Samit reported:**

While we were in the company of Allah's Messenger ﷺ, he said, *"Swear allegiance to me that you will not associate anything with Allah, that you will not commit adultery, that you will not steal, that you will not take any life which it is forbidden by Allah to take but with (legal) justification; and whoever among you fulfils it, his reward is with Allah and he who commits any such thing and is punished for it, that will be all atonement for it And if anyone commits anything and Allah conceals (his faultfls), his matter rests with Allah. He may forgive if He likes, and He may punish him if He likes."*

Sahih Muslim 1709a

**Sulaiman bin Buraida reported on the authority of his father that:**

Ma'iz bin Malik came to Allah's Messenger ﷺ and said to him, "Messenger of Allah, purify me." Whereupon he said, *"Woe be upon you, go back, ask forgiveness of Allah and turn to Him in repentance."* He (the narrator) said that he went back not far, then came and said, "Allah's Messenger, purify me." Whereupon Allah's Messenger ﷺ said: *"Woe be upon you, go back and ask forgiveness of Allah and turn to Him in repentance."* He (the narrator) said that he went back not far, when he came and said, "Allah's Messenger, purify me." Allah's Messenger ﷺ said as he had said before. When it was the fourth time, Allah's Messenger ﷺ said, *"From what am I to purify you?"* He said, "From adultery." Allah's Messenger ﷺ asked if he had been mad. He was informed that he was not mad. He said, *"Has he drunk wine?"* A person stood up and smelt his breath but noticed no smell of wine. Thereupon Allah's Messenger ﷺ said, *"Have you committed adultery?"* He said, "Yes." He made pronouncement about him and he was stoned to death. The people had been (divided) into two groups about him (Ma'iz). One of them said, "He has been undone, for his sins had encompassed him!" Whereas another said, "There is no repentance more excellent than the repentance of Ma'iz, for he came to Allah's Messenger ﷺ and, placing his hand in his (in the Holy Prophet's) hand, said, 'Kill me with stones.'" (This controversy about Ma'iz) remained for two or three days. Then came Allah's Messenger ﷺ to them as they were sitting. He greeted them with salutation and then sat down and said, *"Ask forgiveness for Ma'iz bin Malik."* They said, "May Allah forgive Ma'iz bin Malik." Thereupon Allah's Messenger ﷺ said, *"He has made such a repentance that if it were to be divided among a nation, it would have been enough for all of them."*

**Sahih Muslim 1695a**

**Imran bin Husain reported that:**

A woman from Juhaina came to Allah's Messenger ﷺ and she had become pregnant because of adultery. She said,

"Allah's Messenger, I have done something for which (prescribed punishment) must be imposed upon me, so impose that." Allah's Messenger ﷺ called her master and said, *"Treat her well, and when she delivers bring her to me."* He did accordingly. Then Allah's Messenger ﷺ pronounced judgment about her, and her clothes were tied around her, and then he commanded, and she was stoned to death. He then prayed over her (body). Thereupon Umar said to him, "Allah's Messenger, you offer prayer for her, whereas she had committed adultery!" Thereupon he said, *"She has made such a repentance, that if it were to be divided among seventy men of Medina, it would be enough. Have you found any repentance better than this, that she sacrficed her life for Allah, be He Exalted?"*

**Sahih Muslim 1696a**

**Malik related to me from Abd Ar-Rahman bin Muhammad bin Abdullah bin Abd al-Qari that his father said:**

A man came to Umar bin Al- Khattab from Abu Musa Al-Ashari. Umar asked him about various people, and he informed him. Then Umar inquired, "Do you have any recent news?" He said, "Yes. A man has become a disbeliever after his Islam." Umar asked, "What have you done with him?" He said, "We let him approach, and struck off his head." Umar said, "Didn't you imprison him for three days and feed him a loaf of bread every day, and call on him to repent, that he might turn in repentance and return to the command of Allah?" Then Umar said, "O Allah! I was not present, and I did not order it, and I am not pleased now that (news of) it has come to me!"

**Muwatta Malik, Book 36, Hadith 16**