

## Nguyen Tuong Van and punishment by death

"I will demand an accounting for the life of his fellow man. Whoever sheds the blood of man, by man shall his blood be shed; for in the image of God has God made man." (God, Genesis 9:5b-6)

These ancient words from Genesis still cast a long shadow over all thought about serious crime, and indeed over all judgments upon criminals made by governments.

They embody a paradox that springs from humanity's being in the image of God. People matter so much that to kill one of us seems to demand no less than that the life of the killer be forfeit. Yet to take the life of the killer seems to undermine the very preciousness of humanity that we seek to protect.

Christians reflect this paradox in their deep division over capital punishment:

- For some, the need of a life for a life is stitched deeply into the 'justice-fabric' of the universe. Old Testament law repeatedly invokes the death penalty, and so bears witness to this weave in the moral order. Therefore true justice still includes such weighty punishment.
- But for others, the death of Christ is the life taken to requite for the world's horrible evils. His death also reminds us of that final accounting before his throne. Whatever the OT laws may have been, now is the time for mercy.

How to decide between these two views? Rather than deciding between them, perhaps we have to think up a way to make sense of both of them. After all, that is what governments and rulers have to do.

In the overall sweep of the Bible, judgment is committed into the hands of various rulers, and not to the biblical text. That is, a human being is needed to make discerning decisions about specific situations before them. Even the OT law needed to be wisely applied. It was not an absolute system of mandatory sentences. (Cf. John 8:3-11, although this text is not in the earliest manuscripts of the Bible.)

There are those, then, to whom God entrusts 'the sword' (Romans 13:4), and the mention of this weapon reminds us that at the end of the day, rulers and governments use force. In using it, they have to do two things:

- Governments have to pay attention to the justice-fabric of society. They have to take the thirst for revenge away from victims, and do public justice. People argue over whether this justice is for 'retribution', 'rehabilitation' or 'deterrence'. I think it is a mixture of all three, except that it would be evil to do 'rehabilitation' and 'deterrence' if 'retribution' were not also happening. 'Retribution' is about someone who has made someone else to suffer, being caused to suffer in some public way. I'll go on to say below that this suffering must be 'humane'; but if you recoil at the thought of someone being deliberately made to suffer at all, you'll need to explain what we should do instead for justice to be seen to be done. The government also has to be *consistent* in its application of retribution, or else justice is not seen to be done.
- But governments cannot pretend to replace God. Their judgments are provisional, and in a sense, incomplete, because only God can judge in a way that finally satisfies us. They cannot, for example, make a criminal repent and weep for his sins: if only they could. And in addition, each politician, policeman, judge and prison officer will one day face the judgement of God, as will each criminal. We therefore always know ourselves as a kind of 'equal' to the one we judge. Way back in Deuteronomy 25:3, the judge must not give the offender more than forty lashes, because "If he is flogged more than that, your brother will be degraded in your eyes." So also today: no one who bears 'the

sword' may judge in a way that demeans or cheapens or forgets the image of God that the offender still retains, and the humanity that is shared with him. Nowadays this attitude is called being 'humane'.

So when they judge, governments are faced with the same ancient paradox: that people are precious enough to need serious judgments against criminals, but also precious enough that we have to think carefully about the fate of the criminal.

The issue of capital punishment is also part of a wider dispute over the degree to which OT law is binding upon people today. To cut a long story short, I think two positions are wrong. It is wrong to think that OT law is 'the law' for Christians and others today. It is also wrong to think that it is flawed and defective, or obsolete and irrelevant, and in no way the word of God to us. Old Testament law was a body of law to govern the life of a community called Israel at a specific time and place, so it cannot simply be placed upon any other community in any other time and place. However, it is also an expression (in its time and place) of how God thinks about human social life in his world, so we have to use wisdom to determine what it still has to say to us today. (Ask me another day about this wisdom, where we get it from, and how it makes its determinations.)

So governments have this 'sword' and find themselves wielding it, in line with the need for justice that is woven into the fabric of human social life in this world, but also with that final justice that coming in God's future kingdom on the horizon. Should they wield the sword to kill criminals? I cannot find a reason to claim that there is never a place for capital punishment. But nor can I therefore conclude that all communities should have it just because it is an option.

For example, modern Western countries have the opportunity to express the preciousness of the criminal by the invention of jails. Not all are convinced that lifelong or very long-term imprisonment is more lenient than death or corporal punishment, but the invention of incarceration was an attempt at institutionalising 'mercy'. However, it was only made possible because society was rich enough, and stable enough, to do it. A nomadic society, or an agrarian society, or a society in near-total chaos, has no such option: true justice in such societies is going to have to take the form of corporal punishment, or capital punishment, or exclusion, or else there is no justice.

On Friday December 2nd 2005, Nguyen Tuong Van, 25, will be hung at Changi prison in Singapore. According to the Asian Human Rights Commission (<http://www.ahrchk.net/ua/mainfile.php/2005/1360>), Nguyen Tuong Van was sentenced to death for importing 396 grams of heroin into Singapore. He was convicted under the Misuse of Drugs Act, which carries a mandatory death sentence for any offence relating to quantities of greater than fifteen grams.

On the one hand, we would need to acknowledge that God has given judgment in Singapore to its government. That means, firstly, that no one should argue for Nguyen Tuong Van to have been sentenced by an Australian court: it is right and proper for Singaporeans to have decided his fate. And of course a Singaporean government will best know the social conditions of Singapore, what is needed for social order there, and the ways in which justice is best seen to be done. (It is sometimes helpful to think of different societies as having different 'penal languages'. Justice is not totally different from society to society, but people are different enough that justice is seen to be done in slightly different ways at different times and places.) Very understandably, and sometimes quite rightly, Asian people get quite angry at the way Western commentators declare against Asian practises with seemingly no thought about Asian differences (or about Western hypocrisies).

But even so, sometimes it takes someone from another culture to point out mistakes being made by our own culture. In this case, then, we might humbly yet firmly ask the Singaporean government and people seriously to consider the following questions:

- Is this punishment is proportionate to the crime? It seems that it is not. In my discussion of justice above, I did not mention ‘proportionality’, but this concept has also formed a part of traditional thinking about justice. It can be tricky to come up with ‘proportional’ punishment. But in the case of drug trafficking, isn’t it too much to ask for a person’s life in return? Historically (in the West at least), that punishment has generally been reserved for murder, and in recent years for particularly brutal and malevolent murder, or for situations where social control is very tenuous indeed, and/or where the life of many has been put to very great risk by the criminal. Some may argue that Nguyen Tuong Van risked killing many people who might have overdosed on his heroine, or that he seriously imperilled the quality of life for many who would become addicted; but even so, a punishment akin to that for manslaughter or wilful negligence seems more proportionate.
- We realise that a *mandatory* sentence is consistent, and consistency a key hallmark of justice. But the application of consistency to this case (a very young and foolish man, with a small quantity of heroine) seems ‘inhumane’, by which we mean that his importance as a person in the image of God has been forgotten. What might also have been forgotten is the propensity for every single one of us to folly, particularly when we are 25 (no offence to readers of that age and younger!). We who judge are also to be judged. That tempers our judgments upon fools, because from time to time, we are all fools.
- We might also ask the Singaporean government if the social conditions now obtain for them to reconsider whether mandatory death sentences for drug trafficking are needed for social control. As far as I am aware, their country is affluent enough, their technology sophisticated enough, and the problem now contained enough, for them to think up other modes of punishment that are also consistent, but which are more proportionate and humane.

I cannot say that Nguyen Tuong Van’s execution is wrong because all capital punishment is wrong. There may be times and places where that kind of reply to criminality is needed. But I suspect that Singapore is not such a place.

I also need to admit, as we all do, that I might not know enough about the ‘penal language’ of Singapore in order to understand what is appropriate for justice to be seen to be done there. However even given this reservation, I think that the Singaporean judgment on this drug trafficker, and probably on their drug traffickers in general, is not proportionate to the crime and is not humane. I believe that jurisdiction might need to think again about how to protect and respect the preciousness of both its people *and* its criminals.

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*December 1<sup>st</sup> 2005*

This article relies heavily upon the thought of Professor Oliver O’Donovan. See further:

O’Donovan, Oliver M.T. *The Ways of Judgment: The Bampton Lectures, 2003*. Grand Rapids: Eerdmans, 2005.  
O’Donovan, Oliver M.T. *Measure for measure: justice in punishment and the sentence of death*. Bramcote, Nottingham: Grove Books, 1977.

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