

Bin Laden and the measure of 'justice'

Social Issues briefing #094, 06/05/2011.

[Postscript: as you'd expect, this briefing received some push-back, which I was thankful for and interested in. I thought about updating it in light of that feedback and later writing, but have decided to let it stand as-is. It's surprising how quickly we moved on; but the briefing remains an important snapshot that captured important issues we were all thinking and feeling in the moment.

- AJC 09/06/2011]

Don't gloat when your enemy falls, and don't let your heart rejoice when he stumbles, or the LORD will see, be displeased, and turn His wrath away from him.

Don't worry because of evildoers, and don't envy the wicked. For the evil have no future; the lamp of the wicked will be put out.

(Proverbs 24:17-20, HCSB)

Do not repay anyone evil for evil. Be careful to do what is right in the eyes of everybody. ... Do not take revenge, my friends, but leave room for God's wrath, for it is written: "It is mine to avenge; I will repay," says the Lord. ... Do not be overcome by evil, but overcome evil with good.

... The authorities that exist have been established by God. ... The one in authority is God's servant to do you good [and] an agent of wrath to bring punishment on the wrongdoer. (Rom. 12:17, 19, 21; 13:1b, 4, NIV)

A Christian is glad that God knows how to hold Osama bin Laden to account for his crimes. A Christian weeps to think of anyone, even bin Laden, in hell. This response of sadness and gladness at the settled judgment of God, is the same bittersweet mix we feel at Easter.

But we feel real moral confusion in this case. If we know the infinitude of loss in the families of those whom bin Laden killed, justice has been done – a sense of satisfaction that goes to the heart of our longing for the justice of God. For ten years now, families and communities have cried out for vindication. President Obama's "we got him" spoke, for a moment, to that longing.

Yet rejoicing in the streets at bin Laden's death was unseemly. It was not the biblical authors' kind of relief in God's good judgment. Rather, it reflected the kind of vengefulness that Paul speaks of, which leaves no room for God's wrath, hates the enemy, and is overcome by evil (Rom. 12: 19-21). As a [Vatican spokesman](#) put it:

"Faced with the death of a man, a Christian never rejoices, but reflects on the serious responsibility of each and every one of us before God and before man, and hopes and works so that every event may be the occasion for the further growth of peace and not of hatred."

On witnessing the spectacle of partying in the streets, my friend alluded to words George Lucas put on the lips of Padmé Amidala (played by Natalie Portman): "So this is how liberty dies ... with thunderous cries of 'U – S – A! U – S – A!'"

But is that assessment correct? Or did the United States' effect God's justice, as his 'servant'? The discussion about whether this U. S. action was just, pivots on a few considerations.

1. Is the 'war on terror' really a war, or is it a series of police actions against criminals?
2. Did bin Laden die as a military commander in a war? Or was it an arrest gone wrong?
3. U. S. servicemen were acting on a 'capture or kill' order. But was there any intention to capture and try Osama bin Laden?

There is much we don't and cannot know. But the questions remain important, because the U. S. government is entrusted with weapons of deadly force *only* so that justice might be done. Since bin Laden has murdered so many (and unless we disagree with [capital punishment](#)), most will think that justice was done in *outcome*. But was justice done and seen to be done in the *process*?

War can only be justified, if at all, as a kind of 'rough justice'. As the U. K. theologian and ethicist Oliver O'Donovan puts it, normal processes of justice are like 'surgery performed under clinical conditions in a hospital'; whereas justice in war is like 'an emergency operation, performed in a remote mountain hut with a penknife' (*The Just War Revisited*, p. 18). We should always prefer and work toward the former; but sometimes, we must with melancholy settle for the latter.

O'Donovan further observes (*The Ways of Judgment*, chs. 1-2) that human justice is always 'imperfectible'. It cannot reach into the heart of the offender and cause him to repent. It cannot turn back upon him what he truly deserves. It cannot restore the endless losses of the heart that victims have suffered. Justice cannot always be conducted with the best of processes: we need to prepare arrests in secret, prosecute charges with imperfect evidence, and navigate the political fallout from the supporters of the accused.

But good justice values even a criminal. To practice justice well is to assert that human life is precious, even if the criminal pretends it is not. For justice to be seen to be done, it requires due process, a proper accounting of the evidence, and the willingness to operate in a way quite different to the methods of the offender. In this regard the U. S. did well to try [Saddam Hussein](#) for war crimes. Even if the process was compromised at points, it had some transparency.

The problem with construing the 'war on terror' as a war has been that war licenses ever looser standards of rough justice. It then becomes hard to return from these, because the society involved becomes calloused against the value of their opponents, and against the value of human life in general. (This point is well explored in relation to bin Laden in the four opinion pieces, listed below.)

So, does the U. S. action meet even the most minimal account of imperfect justice? It is important to put aside the [consequentialist reasoning](#) used to defend the U. S. action. These justifications argue that quick 'justice' sidestepped the inevitable quagmire of Islamist support and violence for Osama. (Consequentialists never attend to the flip side of their consequentialism: in this case, that we will likely reap the whirlwind from disaffected admirers of bin Laden, who suspect that Western 'justice' is corrupt.) Worse, the improvement in Obama's political fortunes, or even the 'restoration' of America's image, has been used to justify the killing. If these considerations justify the action, then there is no such thing as 'justice' and we should stop talking as if there is.

Even if bin Laden was a dangerous combatant in a war, the history of 'just' warfare has drawn the line at killing combatants because we can. In 'just' warfare, we only kill combatants when they pose a clear and present danger. Perhaps bin Laden did so, with a suicide vest, or an AK-47 near at hand. We don't know from this distance, and no one can really second-guess the servicemen in the room.

According to [Leon Pannetta](#), the current director of the CIA, U. S. Navy Seals made the final decision to kill bin Laden rather than the President. But 'the authority here was to kill bin Laden. And obviously, under the rules of engagement, if he had in fact thrown up his hands, surrendered, and didn't appear to be representing any kind of threat, then they were to capture him. But they had full authority to kill him. To be frank, I don't think he had a lot of time to say anything.'

If there was no real intention to capture bin Laden, and if the raid was effectively an extra-judicial assassination rather than an arrest gone wrong, then U. S. governance is on very dangerous terrain.

The rule of law was once the secular West's quiet euphemism for the subservience owed by governments to the rule of Christ. Cavalier rejection of the rule of law reflects a titanic pretension in human governance. If the U. S. now sanctions extra judicial assassination, it subscribes to only one ordering moral principle: U. S. interest. That in turn means that the United States Government has reduced 'human rights' to a nationalist hermeneutic, where the humans with rights are the citizens of the U. S. and its client states. If so, the U. S. embodies a post-Christian turn from the rule of law to the rule of might, and would no longer be remotely a 'Christian nation' but a nation little different to ancient Rome – whom Christians had to come against, with the gospel.

The most powerful collective on earth must be interested to demonstrate that for justice to be done, it also must be seen to be done, through due processes of law. If the last ten years has hardened this nation as a people, and has cheapened their valuing of human life, then the time has come for Christians within and beyond the U. S. to help this nation think again.

- **Andrew Cameron**
(for the Social Issues Executive, Anglican Diocese of Sydney)

Further Reading

O'Donovan, Oliver M.T.:

The Ways of Judgment: The Bampton Lectures, 2003. Grand Rapids: Eerdmans, 2005, chs. 1–2.

The Just War Revisited. Cambridge: Cambridge University Press, 2003.

The Desire of the Nations: Rediscovering the Roots of Political Theology. Cambridge: Cambridge University Press, 1996, chs. 6–7 .

Geoffrey Robertson, 'Bin Laden's summary execution maketh the man, martyr and myth', 4 May 2011, available at <http://www.smh.com.au/opinion/politics/bin-ladens-summary-execution-maketh-the-man-martyr-and-myth-20110503-1e6md.html>

Cynthia Banham, 'Operation Get Osama signals loss of values', 6 May 2011, available at <http://www.smh.com.au/opinion/society-and-culture/operation-get-osama-signals-loss-of-values-20110505-1e9xq.html>

Gideon Boas and Pascale Chifflet, 'Order for execution was illegal', 5 May 2011, available at <http://www.smh.com.au/opinion/politics/order-for-execution-was-illegal-20110504-1e8bp.html>

Moira Rayner, 'The murder of Osama bin Laden,' *Eureka Street* 3 May 2011, available at <http://www.eurekastreet.com.au/article.aspx?acid=26146>

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