

The Philosophy of Capital Punishment in Halacha

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(Based on Response no. 32 of Responsa Emek
Halacha, ~~Part~~ Vol. I, by Zeide, 15).

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An analytic inquiry into the reasons and broad
bases of the Jewish philosophical system with regard to
capital punishment will reveal that three factors determine
the moral right, or preferably the moral and legal
imperative, to ~~for~~ take the life of a human being who
has been found guilty of certain major crimes. Each of
these factors plays a significant, major and independent role
in the rationalization or justification of the punishment.

ethical, social & metaphysical - all independent,

also for
the sake of
the crime as
having 3
roots.

✓ as anti-reasons to argument re. capit. pun. [Personal out,
∴ no ~~personal~~ anti-reason absent, hence since no personal reason
not to take his life ∴ : no personal or retaliatory reason
although no personal reason against killing him, (to wit: פסוק רצח
+ דברי עובדי ע"י"ו etc.) still actual personal reason for killing about
this proves ~~personal~~ not literally.] Proof of triple root.

Cain murders Abel, & although the Lord doesn't judge him to
death, his punishment is still contains, clearly, the elements of
the three reasons. This triple-pattern is clearly illustrated

The above indicates clearly the tripo-root pattern for the exercise of capital punishment.

We must now consider the mutual relationships of these 3 roots, or better, the independence of these 3 principles from each other and the limitations of each.

1. The social. The crime, having been a sin against society, must be repaid in a social sense. The punishment, therefore, must be meted out in a form which will be instructive to the masses in a prohibitory sense, and which will edify, negatively, the fellow-men of the guilty one. This is the reason given by the ש"ס in his ג'קאן דו , which he derives from the Biblical explanation " $\text{לפני אדם וכל ישראלי}$ ". It is at once both a lesson and a warning; a preventive, an assurance that any future perpetrators of the same crime will be scared away by the threat of similar punitive treatment. As such, the punishment is independent of the guilty one, and must be executed in a manner which will be observable by and edifying to the masses.

2. The metaphysical. Both the "form" of g-d and the "face" of g-d imply metaphysical entities, and these terms, when used in The Bible, give us a clue to the metaphysical content of the passage. The term " דבר ", similarly, implies a metaphysical act, this time ^{an act} ~~an act~~ which leads to the pardon.

of a metaphysical sin. Thus, a metaphysical crime ~~can~~
is punishable by $\text{פָּדוּתוֹ} \text{ וְיָמוּתוֹ}$ and is
eradicated by וְיָמוּתוֹ , which is also of a metaphysical nature.

Thus, $\text{כִּי-יִשְׁפָּטֶנּוּ} \text{ יְיָ} \text{ וְיָמוּתוֹ} \text{ פָּדוּתוֹ} \text{ בְּכָל} \text{ חַטֹּאתָיו} \text{ וְיָמוּתוֹ}$
 $\text{פָּדוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ}$
 $\text{וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ}$

Eating raw blood is a metaphysical sin, because of the
connection of פָּדוּתוֹ to וְיָמוּתוֹ , said. One who commits a
crime of this sort is, then, punished by $\text{וְיָמוּתוֹ} \text{ וְיָמוּתוֹ}$, because
blood was meant to act as an agent of וְיָמוּתוֹ which is
a metaphysical excommunication. It is remarkable that both
anonymous acts, וְיָמוּתוֹ and וְיָמוּתוֹ (yet reference)
are indicative of metaph. punishment. In the case of וְיָמוּתוֹ ,
quoted above, we have $\text{וְיָמוּתוֹ} \text{ וְיָמוּתוֹ}$. (Orhelos, however,
~~gives translate~~ interprets this passage as rhetorically
interrogative by translating it negatively, thus:

" $\text{וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ} \text{ וְיָמוּתוֹ}$ ",

"and ~~from~~ before you it is impossible to ~~hide~~". Orhelos,
however, was not worried by the seemingly ~~incoherent~~ ^{unresolvable} problem
of two contradictory statements meaning the same thing, but
rather by a desire to diminish any references to anthropomorphism
or limitations of Divine omnipotence in the Bible).

The metaphysical punishment, a reason for punishment, is different from the social in that it concerns ~~not~~ no one but the guilty individual himself, albeit that the punishment, too, is contrary to ~~the~~ his wishes. Further, the relation of the punishment to the crime of the individual & the individual himself is so strong that the punishment, resulting in death, is meted out only where the sin is excusable by it. Thus, the murder of children in the course of the practice of idolatry, namely the sacrifice of small children to the Molech, is a metaphysical crime. E. S. 10 p. 1.

על פי הלכה עצמאית ולא כפי חז"ל. This act is described as a desecration
of the highest order. The punishment is as clear - מות בשר ודם
בדבר זה. The Talmud (Sanhedrin 64) in discussing this
commandment, comments that, however, מי שחנך את בנו למוֹלַךְ,
he who sacrifices all of his children to the Molech is free.

The דָּבָר , quoted by the תַּלְמוּד , *ibid*, explains: $\text{מִיָּדָהּ יֵצֵא הַיָּדוֹן}$
 $\text{וְהַיָּדוֹן יֵצֵא הַיָּדוֹן}$ / $\text{וְהַיָּדוֹן יֵצֵא הַיָּדוֹן}$ / $\text{וְהַיָּדוֹן יֵצֵא הַיָּדוֹן}$
 (Translate).

0000, then, as a form of metaphysical punishment, is dependent upon the extent of the individual's crime per se; not the crime against society, but the smear on the soul of the criminal as a result of his crime.