

IS PRISON THE BEST PLACE FOR CRIMINALS?

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IS PRISON THE BEST PLACE FOR CRIMINALS?

A prison confines individuals who have been deprived of their liberty following a conviction for a crime which is an intentional act that is deemed to be socially harmful or dangerous and is specifically defined, prohibited, and punishable under the criminal law.

On the other hand, capital punishment or the death penalty is the execution of criminal who has been sentenced to death after conviction.

DEVELOPMENT OF PRISON SYSTEM

Under the influence of the European Enlightenment, which gave birth to the universal Godlessness that is called secularism, the Abolition movement, in the latter part of the eighteenth century, began to limit the scope of capital punishment. Prisons increasingly became the main means of punishing serious offenders. By the early twenty-first century, a majority of countries had abolished or suspended the death penalty, and imprisonment became the most severe form of punishment their courts could impose.

SECULAR VIEWPOINT

The ideas that prisons are places of punishment and capital punishment should be abolished originate from secularism. The arguments in favour of prisons mirror arguments against capital punishment.

Under secularism, murder became a crime against society as represented by the state, rather than a crime against the person as represented by the victim's relatives.

SECULAR ARGUMENTS IN FAVOUR OF PRISONS

The secular arguments in favour of prisons are:

- General and individual deterrence
- Retribution
- Reformation
- Protection of the public
- Discrimination against minorities
- Lower penalty of miscarriage of justice
- Capital punishment is torture
- Capital punishment is undignified

DETERRENCE

It is argued that prisons offer general deterrence to those who would otherwise commit crimes and individual deterrence by making it less likely that those who serve a prison sentence will commit crimes after their release.

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By the early twenty-first century there were more than 9 million men, women, and children in prisons around the world. Before the mid-twentieth century, the number of imprisoned individuals worldwide had been far lower. For example, in 1880 England's prison population stood at 32,000. By the early twenty-first century, the total prison population in England and Wales exceeded 80,000.

Prisons do not appear to have had much, if any, deterrent effect as shown by the explosion in prison populations, whereas capital punishment deters potentially violent offenders for whom the threat of imprisonment is not a sufficient deterrence, and offers at the individual level no possibility of reoffending.

PUNISHMENT AND RETRIBUTION

It is argued that prisons exact punishment on and secure retribution from those who have committed serious crimes from society's perspective.

However, the victim or the victim's relatives are the injured party, and they have no say on the punishment, do not receive any compensation for the injury suffered and do not have any opportunity to forgive the criminal, if they so wish.

The burgeoning prison populations have led to increasing costs on governments, some of which began to hand over prison management to the private firms in a process called privatization as a way to reduce costs. However, the savings, if any, are not significant because governments have exchanged the high capital expenditure on prisons for long-term revenue expenditure. Although privatization may reduce current short-term costs, it leads to increasing future long-term costs to society. While prisoners lose their liberty, society pays a huge and growing financial cost for their accommodation.

So it is not clear whether prisons do exact punishment or secure retribution from society's perspective. They clearly do not exact punishment or secure retribution for the victim's relatives.

On the other hand, capital punishment exacts punishment and retribution as it publicly displays the moral indignation not only of the victim's relatives but society as a whole.

REFORMATION

It is argued that prisons encourage the personal reform of those who are sent to prison. Certainly, they do provide governments the opportunity to spend taxation revenue on reforming criminals.

In China and the Soviet Union, imprisonment was historically used as a means of reforming the minds of criminals, by forcing prisoners to work in support of the state so that they may recognize the error of their ways.

However, if murder is a crime against the injured party, then the reformation of criminals is less important than punishment and retribution.

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Moreover, it is not clear why governments cannot spend the savings from capital punishment on the education of minors before they reach adulthood when the vast majority of serious crimes are committed. Minors are much easier to program with proper conduct than adults. Therefore taxation revenue would be better spent on the education of minors before they run the risk of committing serious crimes in adulthood, rather than the ineffective and costly reformation of criminals who know that they will never face capital punishment.

PROTECTION OF PUBLIC

It is argued that prisons offer the public protection from criminals especially serial offenders. Certainly, this is the case for the criminal, but again at what cost to society?

Capital punishment is less costly to the society and gives better protection to the public as there is no possibility of prisoner escapes or serial offending.

DISCRIMINATION AGAINST MINORITIES

It is argued that capital punishment is unfairly applied to minorities who do not have access to proper legal assistance and suffer racial prejudice. This is certainly true.

However, minorities are also significantly overrepresented in prisons, for example, African Americans in the United States, Roma in Central Europe, Aborigines in Australia, and Maori in New Zealand.

Therefore this is an argument for the promotion of racial awareness and understanding.

LOWER PENALTY FROM MISCARRIAGE OF JUSTICE

It is argued that even in a well-run capital punishment system it is not possible to ensure that only those who are deserving of death are executed. There always remains a small risk that an innocent will be unjustly executed. Prisons avoid this risk.

However, again at what cost to society and the relatives of the majority of victims for whom it is evident that the criminal is guilty? Why should the vast majority of criminals who are guilty be saved at the expense of a few innocents? Why should the overwhelming benefits of capital punishment to society and the injured parties be waived in favour of the cost to a minority of innocents?

CAPITAL PUNISHMENT IS TORTURE

It is argued that prisons avoid the tortuous methods historically used in capital punishment, such as:

- In Ancient Rome, being hurled from the Tarpeian Rock; being drowned in a sealed bag with a dog, cock, ape, and viper; being forced into gladiatorial combat; or being crucified;
- In Ancient China, being sawed in half; being flayed alive; or being boiled alive;
- In Medieval Europe, being “broken” on the wheel; boiled in oil; burnt at the stake; decapitated by the guillotine or an axe; hung; drawn and quartered; and drowned

While this is true, it is not clear why less tortuous methods of capital punishment cannot be devised. Indeed, by the end of the twentieth century many jurisdictions had adopted death by lethal injection.

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Prisons, on the other hand, exercise mental torture through the denial of privacy and liberty. If the denial of privacy and liberty were not torture, why would prisoners continue riot to this day when they are accommodated rent-free and provided with food and water?

CAPITAL PUNISHMENT IS INDIGNIFIED

It is also argued that prisons avoid the public spectacle of executions that were often attended by large crowds with the mutilated bodies being displayed until they rotted.

Capital punishments have a strong general deterrent effect precisely because they are public events. Therefore, the larger the crowd, the stronger the deterrent effect. A crime has been committed, and the criminal is seen to have been punished. Once the capital punishment has been executed the criminal has paid for their crime and therefore there is no reason why their bodies should continue to remain displayed until they rot. They should be accorded full funeral and burial rights.

ISLAMIC VIEWPOINT

In Islamic Law, crime and punishment are defined by Allah [swt].

Since Allah [swt] created all matter, energy, space and time from nothing, He is the First Cause and must, therefore, be [All-Knowing](#), that is He must know everything about anything before He created it, because He created it from nothing.

أَلَا يَعْلَمُ مَنْ خَلَقَ وَهُوَ اللَّطِيفُ الْخَبِيرُ ﴿١٤﴾

Should not He Who has created know? And He is the Most Kind and Courteous, All-Aware.¹

Since mankind forms part of His creation, Allah [swt] must know better than anyone what constitutes a crime and its punishment.

¹ Surah Al-Mulk Chapter 67 Verse 14

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WHAT IS MURDER?

﴿وَاتْلُ عَلَيْهِمْ نَبَأَ ابْنَيْ آدَمَ بِالْحَقِّ إِذْ قَرَّبَا قُرْبَانًا فَتُقْبِلَ مِنْ أَحَدِهِمَا وَلَمْ يُتَقَبَّلْ مِنَ الْآخَرِ قَالَ لَأَقْتُلَنَّكَ ۖ قَالَ إِنَّمَا يَتَقَبَّلُ اللَّهُ مِنَ الْمُتَّقِينَ ﴿٢٧﴾ لَئِنْ بَسَطْتَ إِلَيَّ يَدَكَ لِتَقْتُلَنِي مَا أَنَا بِبَاسِطِ يَدِيَ إِلَيْكَ لِأَقْتُلَكَ إِنِّي أَخَافُ اللَّهَ رَبَّ الْعَالَمِينَ ﴿٢٨﴾ إِنِّي أُرِيدُ أَنْ تَبُوءَ بِإِثْمِي وَإِثْمِكَ فَتَكُونَ مِنَ أَصْحَابِ النَّارِ ۖ وَذَلِكَ جَزَاءُ الظَّالِمِينَ ﴿٢٩﴾ فَطَوَّعَتْ لَهُ نَفْسُهُ قَتْلَ أَخِيهِ فَقَتَلَهُ ۖ فَأَصْبَحَ مِنَ الْخَاسِرِينَ ﴿٣٠﴾ فَبَعَثَ اللَّهُ غُرَابًا يَبْحَثُ فِي الْأَرْضِ لِيُرِيَهُ كَيْفَ يُورِي سَوَاءَ أَخِيهِ ۖ قَالَ يُوزِلُنِي أُعْجِزْتُ أَنْ أَكُونَ مِثْلَ هَذَا الْغُرَابِ فَأُورِي سَوَاءَ أَخِي ۖ فَأَصْبَحَ مِنَ النَّادِمِينَ ﴿٣١﴾ مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَى بَنِي إِسْرَءِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا ۖ وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِّنْهُمْ بَعَدَ ذَلِكَ فِي الْأَرْضِ لَمُسْرِفُونَ ﴿٣٢﴾﴾

And [O Muhammad (saws)] recite to them [the Jews] the story of the two sons of Adam [Hâbil (Abel) and Qâbil (Cain)] in truth; when each offered a sacrifice [to Allâh (swt)], it was accepted from the one but not from the other. The latter said to the former: "I will surely kill you." The former said: "Verily, Allâh [swt] accepts only from those who are Al-Muttaqûn [the pious]." "If You do stretch your hand against me to kill me, I shall never stretch my hand against you to kill you: for I fear Allâh [swt]; the Lord of the 'Alamîn [mankind, jinns, and all that exists]." "Verily, I intend to let you draw my sin on yourself as well as yours, then you will be one of the dwellers of the Fire; and that is the recompense of the Zâlimûn [polytheists and wrong-doers]." So the Nafs [self] of the other encouraged him and made fair-seeming to him the murder of his brother; he murdered him and became one of the losers. Then Allâh [swt] sent a crow who scratched the ground to show him to hide the dead body of his brother. He said: "Woe to me! Am I not even able to be as this crow and to hide the dead body of my brother?" Then he became one of those who regretted. Because of that we ordained for the Children of Israel **that if anyone killed a person not in retaliation of murder**, or [and]] to spread mischief in the land - it would be as if he killed all mankind, and if anyone saved a life, it would be as if he saved the life of all mankind. And indeed, there came to them Our Messengers with clear proofs, evidences, and signs, even then after that many of them continued to exceed the limits in the land!²

Murder is the intentional killing of a person, not in retaliation of murder.

² Surah Al-Ma'idah Chapter 5 Verses 27-32

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MURDER IS A SIN

﴿قُلْ تَعَالَوْا أَتْلُ مَا حَرَّمَ رَبِّي عَلَيْكُمْ أَلَّا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَلَا تَقْتُلُوا أَوْلَادَكُمْ مِنْ إِمْلَاقٍ نَحْنُ نَرْزُقُكُمْ وَإِيَّاهُمْ وَلَا تَقْرَبُوا الْفَوَاحِشَ مَا ظَهَرَ مِنْهَا وَمَا بَطَنَ وَلَا تَقْتُلُوا النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ ذَلِكُمْ وَصَّيْتُكُمْ بِهِ لَعَلَّكُمْ تَعْقِلُونَ﴾



Say [O Muhammad (saws)]: "Come, I will recite what your Lord has prohibited you from: Join not anything in worship with Him; be good and dutiful to your parents; kill not your children because of poverty - We provide sustenance for you and for them; come not near to Al-Fawâhish [shameful sins, illegal sexual intercourse] whether committed openly or secretly, and **kill not anyone whom Allâh [swt] has forbidden, except for a just cause [according to Islâmic law]**. This He has commanded you that you may understand.³

THE DIVINE PUNISHMENT FOR MURDER

وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فَجَزَاؤُهُ جَهَنَّمُ خَالِدًا فِيهَا وَغَضِبَ اللَّهُ عَلَيْهِ وَلَعْنَهُ وَأَعَدَّ لَهُ عَذَابًا عَظِيمًا



And whoever kills a believer intentionally, **his recompense is Hell** to abide therein, and the Wrath and the Curse of Allâh [swt] are upon him, and a great punishment is prepared for Him.⁴

³ Surah Al-An'am Chapter 6 Verse 151

⁴ Surah An-Nisa' Chapter 4 Verse 93

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يَتَأْتِيهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ﴿٦٨﴾ وَمَنْ يَفْعَلْ ذَلِكَ عُدْوَانًا وَظُلْمًا فَسَوْفَ نُصْلِيهِ نَارًا وَكَانَ ذَلِكَ عَلَى اللَّهِ يَسِيرًا ﴿٦٩﴾

*O you who believe! Eat not up your property among yourselves unjustly except it be a trade amongst you, by mutual consent. And do not kill yourselves [nor kill one another]. Surely, Allâh [swt] is Most Merciful to you. And whoever commits that through aggression and injustice, **We shall cast him into the Fire**, and that is easy for Allâh [swt].⁵*

وَالَّذِينَ لَا يَدْعُونَ مَعَ اللَّهِ إِلَهًا ءَاخَرَ وَلَا يَقْتُلُونَ النَّفْسَ الَّتِي حَرَّمَ اللَّهُ إِلَّا بِالْحَقِّ وَلَا يَزْنُونَ وَمَنْ يَفْعَلْ ذَلِكَ يَلْقَ أَثَامًا ﴿٧٠﴾ يُضَاعَفْ لَهُ الْعَذَابُ يَوْمَ الْقِيَمَةِ وَيَخَلَدْ فِيهِ مُهَانًا



*And those who invoke not any other Ilâh [God] along with Allâh [swt], nor kill such life as Allâh [swt] has forbidden, except for just cause, nor commit illegal sexual intercourse - and whoever does this shall receive the punishment. **The torment will be doubled to him on the Day of Resurrection**, and he will abide therein in disgrace;⁶*

AVOIDED BY LAW OF EQUALITY IN PUNISHMENT

وَكَتَبْنَا عَلَيْهِمْ فِيهَا أَنَّ النَّفْسَ بِالنَّفْسِ وَالْعَيْنَ بِالْعَيْنِ وَالْأَنْفَ بِالْأَنْفِ وَالْأُذُنَ بِالْأُذُنِ وَالسِّنَّ بِالسِّنِّ وَالْجُرُوحَ قِصَاصٌ فَمَنْ تَصَدَّقَ بِهِ فَهُوَ كَفَّارَةٌ لَهُ وَمَنْ لَّمْ يَحْكَمْ بِمَا أَنزَلَ اللَّهُ فَأُولَٰئِكَ هُمُ الظَّالِمُونَ ﴿٧١﴾

*And We ordained therein for them: "**Life for life**, eye for eye, nose for nose, ear for ear, tooth for tooth, and wounds equal for equal." But if anyone remits the retaliation by way of charity, it shall be for him an expiation. And whosoever does not judge by that which Allâh [swt] has revealed, such are the Zâlimûn [polytheists and wrong-doers - of a lesser degree].⁷*

⁵ Surah An-Nisa' Chapter 4 Verses 29-30

⁶ Surah Al-Furqan Chapter 25 Verses 68-69

⁷ Surah Al-Ma'idah Chapter 5 Verse 45

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RETALIATION IS CARRIED OUT IN THE SAME MANNER AS THE MURDER

الشَّهْرُ الْحَرَامُ بِالشَّهْرِ الْحَرَامِ وَالْحُرُمَتُ قِصَاصٌ ۚ فَمَنْ أَعْتَدَى عَلَيْكُمْ فَأَعْتَدُوا عَلَيْهِ بِمِثْلِ مَا
أَعْتَدَى عَلَيْكُمْ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ مَعَ الْمُتَّقِينَ ﴿١٩٤﴾

The sacred month is for the sacred month, and for the prohibited things, there is the Law of Equality [Qisâs]. **Then whoever transgresses the prohibition against you, you transgress likewise against him.** And fear Allâh [swt], and know that Allâh [swt] is with Al-Muttaqûn (the pious).⁸

وَإِنْ عَاقَبْتُمْ فَعَاقِبُوا بِمِثْلِ مَا عُوقِبْتُمْ بِهِ ۖ وَلَئِنْ صَبَرْتُمْ لَهُوَ خَيْرٌ لِلصَّابِرِينَ ﴿١٩٥﴾

And if you punish [your enemy, O you believers in the Oneness of Allâh (swt)], then punish them with the like of that with which you were afflicted. But if you endure patiently, verily, it is better for As-Sâbirin [the patient ones, etc.].⁹

The retaliation is carried out in the same manner as the murder to ensure equality and reciprocity.

RETALIATION MAY BE FORGIVEN FOR BLOOD-MONEY

يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُتِبَ عَلَيْكُمُ الْقِصَاصُ فِي الْقَتْلَى ۖ الْحُرُّ بِالْحُرِّ وَالْعَبْدُ بِالْعَبْدِ وَالْأُنثَىٰ
بِالْأُنثَىٰ ۚ فَمَنْ عُفِيَ لَهُ مِنْ أَخِيهِ شَيْءٌ فَاتِّبَاعٌ بِالْمَعْرُوفِ وَأَدَاءٌ إِلَيْهِ بِإِحْسَنٍ ۚ ذَٰلِكَ تَخْفِيفٌ مِّن
رَّبِّكُمْ وَرَحْمَةٌ ۚ فَمَنْ أَعْتَدَىٰ بَعْدَ ذَٰلِكَ فَلَهُ عَذَابٌ أَلِيمٌ ﴿١٩٨﴾ وَلَكُمْ فِي الْقِصَاصِ حَيٰوةٌ
يَتَأُولَىٰ ۖ أَلَّا يَلْبَسَ لَعَلَّكُمْ تَتَّقُونَ ﴿١٩٩﴾

O you who believe! Al-Qisâs [the Law of Equality in punishment] is prescribed for you In case of murder: the free for the free, the slave for the slave, and the female for the female. **But if the killer is forgiven by the brother [or the relatives, etc.] of the killed against blood money, then adhering to it with fairness and payment of the blood-money, to the heir should be made in fairness.** This is alleviation and a mercy from your Lord. So after this whoever transgresses the limits [i.e. kills the killer after taking the blood-money], he shall have a painful torment. And there is [a saving of] life for you in Al-Qisâs [the Law of Equality in punishment], O men of understanding, that you may become Al-Muttaqûn [the pious].¹⁰

⁸ Surah Al-Baqarah Chapter 2 Verse 194

⁹ Surah An-Nahl Chapter 16 Verse 126

¹⁰ Surah Al-Baqarah Chapter 2 Verse 178-179

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THE REWARD FOR FORGIVENESS

مِنْ أَجْلِ ذَلِكَ كَتَبْنَا عَلَىٰ بَنِي إِسْرَءِيلَ أَنَّهُ مَنْ قَتَلَ نَفْسًا بِغَيْرِ نَفْسٍ أَوْ فَسَادٍ فِي الْأَرْضِ فَكَأَنَّمَا قَتَلَ النَّاسَ جَمِيعًا وَمَنْ أَحْيَاهَا فَكَأَنَّمَا أَحْيَا النَّاسَ جَمِيعًا وَلَقَدْ جَاءَتْهُمْ رُسُلُنَا بِالْبَيِّنَاتِ ثُمَّ إِنَّ كَثِيرًا مِّنْهُمْ بَعَدَ ذَلِكَ فِي الْأَرْضِ لَمُسْرِفُونَ ﴿٣٢﴾

Because of that We ordained for the Children of Israel that if anyone killed a person not in retaliation of murder, or [and] to spread mischief in the land - it would be as if he killed all mankind, **and if anyone saved a life, it would be as if he saved the life of all mankind.** And indeed, there came to them Our Messengers with clear proofs, evidences, and signs, even then after that many of them continued to exceed the limits [e.g. by doing oppression unjustly and exceeding beyond the limits set by Allâh (swt) by committing the major sins] in the land!¹¹

The aggrieved relatives of the victims have a very strong incentive to forgive the murderer.

THE ORDER TO JUDGE, BY ISLAMIC LAW

وَأَن آحْكُم بَيْنَهُم بِمَا أَنزَلَ اللَّهُ وَلَا تَتَّبِعْ أَهْوَاءَهُمْ وَاحْذَرْهُمْ أَن يَفْتِنُوكَ عَنْ بَعْضِ مَا أَنزَلَ اللَّهُ إِلَيْكَ فَإِن تَوَلَّوْا فَاعْلَمْ أَنَّمَا يُرِيدُ اللَّهُ أَن يُصِيبَهُم بِبَعْضِ ذُنُوبِهِمْ وَإِنَّ كَثِيرًا مِّنَ النَّاسِ لَفَاسِقُونَ ﴿٤٩﴾

And so judge [you O Muhammad (saws)] **between them by what Allâh [swt] has revealed** and follow not their vain desires, but beware of them lest they turn you [O Muhammad (saws)] far away from some of that which Allâh [swt] has sent down to you. And if they turn away, then know that Allâh's Will is to punish them for some sins of theirs. And truly, most of men are Fâsiqûn [rebellious and disobedient to Allâh (swt)].¹²

¹¹ Surah Al-Ma'idah Chapter 5 Verse 32

¹² Surah Al-Ma'idah Chapter 5 Verse 49

IS PRISON THE BEST PLACE FOR CRIMINALS?

THE POSSIBILITY OF MISCARRIAGE OF JUSTICE

﴿ وَهَلْ أَتَاكَ نَبُؤُا الْخَصْمِ إِذْ تَسَوَّرُوا الْمِحْرَابَ ﴿٢١﴾ إِذْ دَخَلُوا عَلَى دَاوُدَ فَفَزِعَ مِنْهُمْ قَالُوا لَا تَخَفْ خَصْمَانِ بَغَى بَعْضُنَا عَلَى بَعْضٍ فَأَحْكُم بَيْنَنَا بِالْحَقِّ وَلَا تُشْطِطْ وَاهْدِنَا إِلَى سَوَاءِ الصِّرَاطِ ﴿٢٢﴾ إِنَّ هَذَا أَخِي لَهُ تِسْعٌ وَتِسْعُونَ نَعْجَةً وَلِيَ نَعْجَةً وَاحِدَةً فَقَالَ أَكْفَلْنِيهَا وَعَزَّنِي فِي الْخِطَابِ ﴿٢٣﴾ قَالَ لَقَدْ ظَلَمَكَ بِسُؤَالِ نَعَجَتِكَ إِلَى نِعَاجِهِ ۖ وَإِنَّ كَثِيرًا مِّنَ الْخُلَطَاءِ لَيَبْغِي بَعْضُهُمْ عَلَى بَعْضٍ إِلَّا الَّذِينَ ءَامَنُوا وَعَمِلُوا الصَّالِحَاتِ وَقَلِيلٌ مَّا هُمْ ۖ وَظَنَّ دَاوُدُ أَنَّمَا فَتَنَّاهُ فَاسْتَغْفَرَ رَبَّهُ وَخَرَّ رَاكِعًا وَأَنَابَ ﴿٢٤﴾ فَغَفَرْنَا لَهُ ذَٰلِكَ ۖ وَإِنَّ لَهُ عِندَنَا لَزُلْفَىٰ وَحُسْنَ مَّوَآبٍ ﴿٢٥﴾ يَدَاوُدُ إِنَّا جَعَلْنَاكَ خَلِيفَةً فِي الْأَرْضِ فَاحْكُم بَيْنَ النَّاسِ بِالْحَقِّ وَلَا تَتَّبِعِ الْهَوَىٰ فَيُضِلَّكَ عَن سَبِيلِ اللَّهِ ۚ إِنَّ الَّذِينَ يَظْلُمُونَ عَن سَبِيلِ اللَّهِ لَهُمْ عَذَابٌ شَدِيدٌ بِمَا نَسُوا يَوْمَ الْحِسَابِ ﴿٢٦﴾ ۝

And has the news of the litigants reached you? When they climbed over the wall into [Prophet David's] Mihrâb [a praying place or a private room]. When they entered in upon Dâwûd [David (as)], he was terrified of them. They said: "Fear not! [We are] two litigants, one of whom has wronged the other, therefore judge between us with truth, and treat us not with injustice, and guide us to the Right way. Verily, this my brother [in religion] has ninety-nine ewes, while I have [only] one ewe, and he says: "Hand it over to me, and he overpowered me in speech." [Dâwûd (David (as))] said [immediately without listening to the opponent]: "He has wronged you in demanding your ewe In addition to his ewes. And, verily, many partners oppress one another, except those who believe and do righteous good deeds, and they are few." And Dâwûd [David (as)] guessed that We have tried him and he sought forgiveness of his Lord, and he fell down prostrate and turned [to Allâh (swt)] in repentance. So We forgave him that, and verily, for him is a near access to Us, and a good place of [final] return [Paradise]. O Dâwûd [David (as)]! Verily! We have placed you as a successor on earth, **so judge you between men in truth [and justice] and follow not your desire** for it will mislead you from the Path of Allâh [swt]. Verily! Those who wander astray from the Path of Allâh [swt] [shall] have a severe torment, because they forgot the Day of Reckoning.¹³

Even Prophet David [as] was susceptible to make poor judgements.

Therefore in the case of murder, there will always be the possibility of a miscarriage of justice.

¹³ Surah Sad Chapter 38 Verses 21-26

IS PRISON THE BEST PLACE FOR CRIMINALS?

THE PENALTY OF MISCARRIAGE OF JUSTICE

وَإِذَا الْمَوْءُودَةُ سُئِلَتْ بِأَيِّ ذَنْبٍ قُتِلَتْ ﴿٨﴾

And when the female [infant] buried alive [as the pagan Arabs used to do] shall be questioned. For what sin she was killed?¹⁴

So in a similar fashion Allah [swt] will question the innocent for what sin they were executed.

THE DAY OF JUDGEMENT

إِذَا زُلْزِلَتِ الْأَرْضُ زِلْزَالَهَا ﴿١﴾ وَأُخْرِجَتِ الْأَرْضُ أَثْقَالَهَا ﴿٢﴾ وَقَالَ الْإِنْسَانُ مَا لَهَا ﴿٣﴾
يَوْمَئِذٍ تُخْبِتُ أَخْبَارَهَا ﴿٤﴾ بِأَنَّ رَبَّكَ أَوْحَىٰ لَهَا ﴿٥﴾ يَوْمَئِذٍ يَصْدُرُ النَّاسُ أَشْتَاتًا لِّيُرَوْا
أَعْمَلَهُمْ ﴿٦﴾ فَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ خَيْرًا يَرَهُ ﴿٧﴾ وَمَنْ يَعْمَلْ مِثْقَالَ ذَرَّةٍ شَرًّا يَرَهُ ﴿٨﴾

When the earth is shaken with its (final) earthquake. And when the earth throws out its burdens. And man will say: "What is the matter with it?" **That Day it will declare its information** [about all what happened over it of good or evil]. Because your Lord has inspired it. That Day mankind will proceed in scattered groups that they may be shown their deeds. So whosoever does good equal to the weight of an atom [or a small ant], shall see it. Whosoever does evil equal to the weight of an atom [or a small ant], shall see it.¹⁵

Allah [swt] will establish the Day of Judgement for His perfect Judgement.

وَنَضَعُ الْمَوَازِينَ الْقِسْطَ لِيَوْمِ الْقِيَمَةِ فَلَا تُظْلَمُ نَفْسٌ شَيْئًا وَإِنْ كَانَ مِثْقَالَ حَبَّةٍ مِّنْ
خَرْدَلٍ أَتَيْنَا بِهَا وَكَفَىٰ بِنَا حَاسِبِينَ ﴿٤٧﴾

And We shall set up balances of justice on the Day of Resurrection, **then none will be dealt with unjustly in anything.** And if there be the weight of a mustard seed, we will bring it. And sufficient are We as Reckoners.¹⁶

And Allah [swt] will not be unjust to the innocent wrongfully executed.

¹⁴ Surah At-Tawkir Chapter 81 Verses 8-9

¹⁵ Surah Az-Zalzalah Chapter 99 Verses 1-8

¹⁶ Surah Al-Anbiyaa' Chapter 21 Verse 47

IS PRISON THE BEST PLACE FOR CRIMINALS?

مَنْ جَاءَ بِالْحَسَنَةِ فَلَهُ عَشْرُ أَمْثَالِهَا ۖ وَمَنْ جَاءَ بِالسَّيِّئَةِ فَلَا تُجْزَىٰ إِلَّا مِثْلَهَا وَهُمْ لَا يُظْلَمُونَ



Whoever brings a good deed [Islâmic Monotheism and deeds of obedience to Allâh (swt) and his Messenger (saws)] shall have ten times the like thereof to his credit, and whoever brings an evil deed [polytheism, disbelief, hypocrisy, and deeds of disobedience to Allâh (swt) and his Messenger (saws)] shall have only the Recompense of the like thereof, and they will not be wronged.¹⁷

If Allah [swt] rewards a good deed at least ten times more than He punishes an evil deed, can He not make adequate compensation to the innocent wrongfully executed?

If the wrongfully-executed innocent is then rewarded with Paradise, Allah [swt] will remove any lurking sense of injury from their hearts.

إِنَّ الْمُتَّقِينَ فِي جَنَّاتٍ وَعُيُونٍ ﴿٤٥﴾ أَدْخُلُوهَا بِسَلَامٍ ءَامِنِينَ ﴿٤٦﴾ وَتَزَعْنَا مَا فِي صُدُورِهِمْ
مِّنْ غَلٍّٰ إِخْوَانًا عَلَىٰ سُرُرٍ مُّتَقَابِلِينَ ﴿٤٧﴾

*"Truly! The Muttaqûn [pious and righteous persons] will be amidst Gardens and water-springs [Paradise]. [It will be said to them]: 'Enter therein [Paradise], in peace and security.' **And We shall remove from their breasts any sense of injury** [that they may have], [so they will be like] brothers facing each other on thrones."¹⁸*

Although Islamic Law does not remove the high penalty of capital punishment from miscarriage of justice, it offers the promise by the [All-Knowing](#) of compensation for the wrong.

Therefore, the secular argument that capital punishment has too high a penalty from miscarriages of justice relies on the absence of a God Who can put it right.

Moreover, indeed, there are good arguments for the existence of the [Islamic God](#), Allah [swt]:

- [the cosmological causal argument](#)
- the teleological fine-tuning argument
- [the ontological argument](#)

Therefore capital punishment under Islamic Law can only be willingly accepted by a society whose members believe in Allah [swt], by a society of Muslims.

¹⁷ Surah Al-An'aam Chapter 6 Verse 160

¹⁸ Surah Al-Hijr Chapter 15 Verses 45-47

IS PRISON THE BEST PLACE FOR CRIMINALS?

Islam offers the best solution to crime and punishment.

In the case of murder, for example, Islam

- offers the victim's relatives the opportunity to secure retribution in the death penalty and remove any grievance that may led them to commit acts of revenge;
- offers the victim's relatives the opportunity to forgive the criminal in return for compensation or to waive compensation altogether if they so wish;
- deters potential murderers from committing a crime;
- eliminates the societal costs of prisons;
- exacts punishment in the same manner as the murder so there is no injustice to either the murderer or the victim's relatives;
- offers the innocent the opportunity to be compensated for in the Day of Judgement by Allah [swt], the All-Knowing, for being wrongfully tortured and killed.

Islam places the needs of society above the needs of the individual. If there is a conflict between the rights of the individual and the rights of society, the rights of society take precedence. If the rights of the individual have been unfairly violated, then the compensation is paid in the Day of Judgement by Allah [swt] Himself, the [All-Knowing](#).

Therefore, prison is not the best place for criminals.