

CONSIDERATIONS

Benjamin Rush

CONSIDERATIONS

*On the Injustice and Impolicy of
Punishing Murder by Death*

B E N J A M I N R U S H

A Modern Adaptation

Edited and Modernized by

J E F F H O O D

T H E A B O L I T I O N C L A S S I C S

V. 4

The texts that built the case against the death penalty

C O M P L I C I T P R E S S

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This edition newly set and modernized from the original.

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FOREWORD

Benjamin Rush wrote this essay in 1792, a few years after he had watched the new republic he helped found enact its first federal criminal statutes. The Constitution was fresh. The Bill of Rights had just been ratified. The founders were deciding, among other things, what kind of punishment a self-governing people would impose on those who violated its laws. Rush looked at what they were deciding and said: not this.

Rush is not a familiar name in the history of abolitionism, though he deserves to be. He was a physician, a signer of the Declaration of Independence, a founder of the first American antislavery society, the first American to write systematically against the public punishment of criminals, and the first American to argue in print that capital punishment should be abolished entirely. He made this argument to a nation that had just declared all men created equal and then built a constitution that protected the enslavement of human beings. He was aware of the contradiction. He spent much of the rest of his life trying to address it.

I came to Rush through the other books in this series. Every abolitionist argument I encountered pointed backward, and Rush was always near the beginning of the American thread. He knew Beccaria's work. He corresponded with the European reformers. He understood that the argument against capital punishment was not a new one, not a soft one, and not a marginal one — it was the argument that the best legal and moral minds of the Enlightenment had been making

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for decades, and that governments were beginning, however slowly, to take seriously.

What strikes me most about Rush is his impatience. He was writing in 1792 and he already knew the deterrence argument was false. He already knew that executions normalized violence rather than reducing it. He already knew that the death penalty made conviction harder and therefore made murderers more likely to escape punishment altogether. He already knew that the penalty fell on the poor and the friendless with a consistency that made a mockery of equal justice. He knew all of this two hundred and thirty years ago. He wrote it down. He published it. He made the argument available. And then the republic he helped build kept executing people anyway.

I have been in the rooms where that happens. I have sat with men who were scheduled to die by the state and watched the weeks count down. I have held the hands of people whose names would eventually appear in the statistics that researchers use to study whether executions deter crime — people who became, after their deaths, data points in an argument about whether the state's killing of them had any measurable effect on anyone else's behavior. The research says it didn't. Rush said it wouldn't. He was right then and he is right now.

Rush ends his essay by addressing himself to future generations. He despairs of persuading his own contemporaries. He writes to those who will come after, who will have knowledge he can only glimpse, who will look back on execution with the same contempt and horror with which he looked back on torture. I am part of the generation he was writing to. So are you. The

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knowledge he predicted we would have, we have. The question is whether we will use it.

He was addressing us. It is time we answered him.

Rev. Dr. Jeff Hood
North Little Rock, Arkansas
2026

EDITOR'S NOTE

The Author

Benjamin Rush (1746–1813) was a Philadelphia physician, a signer of the Declaration of Independence, and one of the most consequential public intellectuals of the founding era. He was a founder of Dickinson College, a professor of medicine at the University of Pennsylvania, and the Surgeon General of the Middle Department of the Continental Army during the Revolutionary War. He was a founder of the Philadelphia Society for Alleviating the Miseries of Public Prisons, the first such organization in America, and a founder of the first American antislavery society. He was the first American to argue systematically against public punishment of criminals and the first American to publish a sustained argument for the abolition of capital punishment.

Rush's abolitionist essay arose from a dinner party. In 1787, he attended a gathering at the home of Benjamin Franklin at which the subject of criminal punishment was discussed. Rush argued against public punishment; the essay he subsequently wrote on that subject, *An Enquiry into the Effects of Public Punishments upon Criminals and upon Society* (1787), was the first American work to make that argument in print. The *Considerations* appeared in 1792, in the *American Museum*, and was expanded with a *Reply to Theocratos* in 1793. Together they constitute the founding document of American abolitionism.

Rush was a complex figure. He supported the American Revolution with full conviction and signed the Declaration of Independence. He opposed slavery publicly and early, though his own household employed enslaved people at various points in his life — a contradiction he appears to have recognized and struggled with. He was a man of his era in many respects, and a century ahead of his era in others. His medical theories included ideas we now know to be wrong. His abolitionist arguments have never been successfully refuted.

The Original Text

The *Considerations on the Injustice and Impolicy of Punishing Murder by Death* first appeared in the American Museum in 1792. The following year Rush published a Reply to an essay by a respondent who signed himself “Theocratos” — widely assumed to have been a minister — who had argued for retaining capital punishment on scriptural and philosophical grounds. Rush’s reply refutes Theocratos’s arguments point by point and adds considerable new material, particularly on the international movement toward abolition and on the theological argument for mercy.

The essay belongs to the tradition of Beccaria’s *On Crimes and Punishments* (1764), which Rush had read and which informed his framework. Where Beccaria made the argument primarily in terms of social contract theory and utility, Rush made it in terms of natural rights, Christian theology, and the specific requirements of republican government. He was writing for an American audience that combined Enlightenment

rationalism with Protestant Christianity, and he addressed both registers simultaneously.

The Modernization

This edition presents Rush's argument in contemporary language. The original prose of the 1790s combines the formal structures of eighteenth-century rhetoric with the specific theological and political idiom of the founding era. Sentence structures have been simplified, archaic constructions updated, and some examples replaced or supplemented with contemporary evidence. The chapter divisions are editorial; Rush's original is a numbered argument and a separate reply, and the headings in this edition indicate the logical structure of that argument.

What has not been changed: Rush's arguments. Every position he takes, every objection he answers, every scriptural passage he interprets, every empirical claim he makes — all are preserved exactly as he set them down, updated where the evidence he cited has been supplemented by two centuries of additional data that confirms his conclusions. Where Rush could point to a handful of European nations moving toward abolition, we can now point to more than a hundred. The trajectory he identified has continued in exactly the direction he predicted.

The Series

This volume is part of The Abolition Classics, a series published by Complicit Press dedicated to making the essential texts of the abolitionist tradition available in contemporary language to students, practitioners,

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clergy, and anyone willing to think seriously about the state's right to kill. Rush's essay is among the oldest in the series and one of the most important: it is the founding document of American abolitionism, written by a man who helped found the republic and immediately recognized that the republic was failing one of its most basic tests.

*“The Son of Man is not come to destroy
people’s lives, but to save them.”*

— Luke 9:56, cited by Benjamin Rush, 1793

RUSH'S ESSAY

*Considerations on the Injustice and
Impolicy of Punishing Murder by Death*

I. The Natural Right to Life

In an earlier inquiry into the effects of public punishment upon criminals and upon society, I suggested briefly that executing people for murder is unjust. I will attempt in the following essay to support that position and to answer every objection that has been raised against it.

Every person possesses absolute power over their own liberty and property, but not over their own life. When a person enters into political society, they commit the disposal of their liberty and property to their fellow citizens. But because no person has the right to dispose of their own life, they cannot surrender that power to any governing body. To take life for any crime, therefore, is a violation of the first political compact.

II. The Harms of the Penalty

The punishment of murder by death is contrary to reason and to the order and happiness of society.

It lessens the horror of taking human life and thereby tends to multiply murders. The state, by performing killing as ceremony, normalizes the act it claims to condemn. We cannot teach the sanctity of life by destroying it. We cannot model the rejection of violence through violence. Every execution is a lesson in the logic of death — and that lesson is absorbed.

It produces murder through its influence upon people who are exhausted by life. Those who have determined to die, and who believe murder to be a lesser transgression than suicide, destroy the life of another — often of someone close to them — then surrender themselves to the law, seeking the state's hand to accomplish what they could not bring themselves to do themselves. Law enforcement officers have documented this phenomenon for decades. We call it suicide by cop. It is also, sometimes, suicide by execution. The state obliges. No reckoning has ever been made of the lives lost this way, because no such reckoning serves the interests of those who administer the death.

The punishment of murder by death multiplies murders by making conviction more difficult. When jurors know that their verdict will end a human life, they recoil. They look for doubt where they would otherwise find certainty. They accept lesser charges. They acquit altogether. The result is that many killers who would have been convicted under a system of confinement and labor walk free entirely, or face consequences so

diminished as to constitute no consequence at all. If murder were punished by long imprisonment and hard labor, every member of society would be invested in detection and prosecution. The punishment would feel proportionate. The instinct for justice, which is universal, would engage rather than resist.

The punishment of murder by death obstructs universal justice by preventing the prosecution of every form of murder. Corporate executives who knowingly release defective products — pharmaceutical companies that suppress lethal side effects — executives who authorize the disposal of toxic waste into the water supplies of communities too poor to fight back — employers who ignore safety conditions they know will eventually kill workers — these people commit murder. The malice is often as premeditated as any committed by a man with a weapon. But who will attempt to define these killings as murder, or prosecute those responsible as murderers, when death is the punishment that must follow? The machinery of the law stops before it reaches them. Only alter the punishment of murder, and these crimes will assume their proper names. They will become prosecutable. And the number of lives saved will exceed by orders of magnitude the number supposedly protected by the spectacle of execution.

The punishment of murder by death has been proved contrary to the order and happiness of society by the experiments of the wisest governments on earth. More than two-thirds of the world's nations have abolished capital punishment in law or in practice. The data from those nations is not ambiguous. Abolition does not increase homicide rates. In many cases, homicide rates decline. Within the United States itself, states without

the death penalty consistently report lower murder rates than those that retain it. The National Research Council, after a comprehensive review of decades of deterrence research, concluded in 2012 that existing studies were fundamentally unsuitable as a basis for concluding that capital punishment reduces or increases homicide rates. The deterrence argument, the oldest and most persistent justification for execution, rests on nothing. It has always rested on nothing. The research simply confirmed what reason had long since established.

III. The Argument from Scripture

The punishment of murder by death is contrary to divine revelation. A religion that commands us to forgive and even to do good to our enemies cannot authorize the punishment of murder by death. "Vengeance is mine," said the Lord; "I will repay." It is no answer to say that this vengeance is directed against the criminal not by an individual but by the machinery of government. It remains an equal usurpation of the prerogative of heaven, whether inflicted by a single person or by the whole of a society acting through its institutions.

I anticipate an appeal here from the gospel to the law of Moses, which declares that whoever kills a person shall surely be put to death.

Forgive, indulgent heaven, the ignorance and cruelty of human beings — who by the misapplication of this text have so long and so often stained the religion of Jesus Christ with folly and revenge.

The following considerations will demonstrate, I hope, that no argument can be drawn from that law to justify the execution of murderers. On the contrary, several arguments against it may be derived from a just and reasonable reading of the Levitical institutions.

There are many things in Scripture above reason, but nothing in Scripture contrary to reason. The punishment of murder by death is contrary to reason. It cannot, therefore, be consistent with the will of God.

The order and happiness of society cannot fail to be consistent with the will of God. But the punishment of

murder by death destroys the order and happiness of society. It must therefore be contrary to the will of God.

Many of the laws given through Moses were accommodated to the ignorance, wickedness, and hardness of heart of the people to whom they were given. Hence their divine legislator declares explicitly: "I gave them statutes that were not good, and judgments whereby they should not live." The law of divorce and the law of retaliation — an eye for an eye, a tooth for a tooth — are the most cited examples. We do not stone adulterers. We do not practice retaliation as jurisprudence. We understand that these ordinances belonged to a particular people in a particular moment of moral development. The death penalty belongs to the same category.

We are told that the punishment of murder by death rests not only on the law of Moses, but on a precept given to Noah and his descendants: "whoever sheds the blood of man, by man shall his blood be shed." The most careful reading of this passage finds in it not a command but a prophecy — a declaration of what will generally happen rather than an instruction for what must. The form of expression is identical to other passages we read as denunciations rather than commandments. "He who leads into captivity shall go into captivity." "He who takes up the sword shall perish by the sword." If those passages bind no magistrate to act, neither does this one. And even if it is taken as a command, the context explains it. In the infancy of the world, after the flood, no structure existed by which murder could be punished by confinement. The only choices were execution or impunity. God permitted in that condition a lesser evil to prevent a greater one. The precept belongs to that

moment. It does not bind societies that possess every other means of addressing violent crime.

Every part of the Levitical law is understood to contain types of the Messiah. The cities of refuge prefigured the mediating offices of Christ. May not the penalty of death, inflicted by that law, be similarly understood to represent the consequence of sin rather than to mandate a practice for all societies in all ages? The shadow does not require literal reproduction.

The severity and imperfection of those laws were further intended to illustrate by contrast the perfection and mercy of the gospel. God created darkness first, that light might be understood by comparison. He permits sin and suffering in this world that righteousness and wholeness might be revealed in greater glory. Paul says it plainly: the law made nothing perfect, and it was a shadow of good things to come. The death penalty belongs to the shadow. The gospel calls us into the light.

How delightful to discover such a harmony between the dictates of reason, the order and happiness of society, and the precepts of the gospel. There is a perfect unity in truth. Upon all subjects — in all ages — and in all nations — truths of every kind agree with one another.

IV. Objections Answered

It has been said that the common sense of all nations, and particularly of less developed ones, is in favor of punishing murder with death.

The common sense of all nations has been used to justify slavery. The common sense of all nations has been used to justify torture. The common sense of all nations has been used to justify conquest and the extermination of peoples who stood in the way of the powerful. Universal acceptance does not establish moral validity. If anything, the record of human history suggests that practices embraced by all nations should be examined with particular care.

It has been said that the anguish of a guilty conscience proclaims the justice and necessity of death as a punishment for murder. I draw a different argument from this fact. If the torment of conscience is the punishment God visits upon murder, why do we shorten or destroy that torment by death? We are taught to direct even the most atrocious murderers toward the expectation of pardon in the world to come. Let us not counteract the governance of God in the human soul. Let the murderer live — but let it be to suffer the reproaches of a conscience that cannot be silenced. Let him live to make restitution to society for the injury done by robbing it of a citizen. Let him live to support the family of the person he has killed. Let him live, that the punishment of his crime may be visible and continuous. And let him live — that murder may be extirpated at last from the catalog of human offenses.

Consider the conduct of the moral Ruler of the world toward the first murderer. See Cain returning from the field with the blood of his brother on his hands. Do the heavens gather darkness and does lightning strike him down? No. Does Adam, the natural legislator and judge of the world, impose upon him the sentence of death? No. The infinitely wise God becomes his judge and his executioner. He expels him from the society of which he was a member. He fixes in his conscience a deathless torment. He subjects him to the necessity of labor. And to secure a duration of punishment proportioned to the crime, he places upon him a mark or prohibition to prevent his being put to death by weak and angry men — declaring at the same time that whoever slays Cain, vengeance shall be taken on them sevenfold.

Judges, prosecutors, witnesses, juries, and wardens — whose office it is to punish murder by death — I implore you to pause and listen to the voices of reason and religion before you convict or execute another human being for murder.

But I despair of making such an impression upon the present citizens of the United States as shall abolish this absurd and unchristian practice. This essay will likely descend to those who come after us. To you, therefore, the generations yet unborn, I consecrate this modest tribute to justice. You will enjoy a knowledge that we can only glimpse from where we stand. You will look back with both contempt and horror upon the indolence, the ignorance, and the cruelty of those who came before you. The worst crimes will not exclude their perpetrators from your pity. You will understand fully the scope of the gospel's discoveries and precepts, and you will be moved, I hope, by its gentle and forgiving

spirit. You will see many of our certainties in religion and government turned upside down. You will see many connections established between cause and effect that we could not perceive. From the importance and destiny of every human soul, you will have acquired ideas about the dignity of human nature and the infinite value of every act of mercy that takes as its object the bodies, the souls, and the lives of your fellow creatures. You will love the whole human race, because you will have understood that you share a common origin — and you will have learned to imitate your Creator by converting the punishments to which human folly and wickedness have exposed people into the means of their reformation and happiness.

A Reply to Theocratos

Soon after the above inquiry was published, a reply to it appeared under the signature of Theocratos, which has produced the following answer. The principal arguments in favor of punishing murder by death, contained in the reply, are addressed below.

I have read a reply, subscribed Theocratos, to an inquiry into the justice and policy of punishing murder by death. The author has attempted to justify public and capital punishments, as well as war, by the precepts of the gospel. Let not my readers suppose that this author is a skeptic — or a secularist — or that he is in any degree hostile to Christianity. Far from it. He is a minister of the gospel — and a man of worthy private as well as public character.

Our author begins his reply by asserting that the objection to the death penalty for murder originated in a rejection of the doctrine of the atonement. Here I must acknowledge my obligations to our author for providing me with a new argument in favor of my principles. I believe in the doctrine of the atonement, not only because it is clearly revealed in the old and new testaments, but because it is consistent with nature and reason. Life is the product of death throughout every part of the created order. Reason likewise confirms the necessity of the atonement, because certainty of consequence — rather than severity of punishment — is what actually deters crime. The demands of the divine law, which made the shedding of blood necessary for the remission of sin, constitute a sublime illustration of the

perfection of divine governance and the love of the Supreme Being for intelligent creatures. But in the demand of life for disobedience, let the divine law stand alone. Human beings stand in a very different relation to one another from that which God holds toward humanity. We are all fallible, and deficient in a thousand duties we owe to one another. We are bound, therefore, by the precept of doing to others as we would have them do to us — to forgive without requiring a satisfaction, inasmuch as we constantly require the same forgiveness to be extended toward ourselves. To punish murder, or any crime, by death under the gospel dispensation is to elevate the angry and vindictive passions of human beings to an equality with the perfect law of God. It places imperfect individuals and corrupted human governments upon the throne of the righteous Judge of the universe. And it does more than that: it makes the death of Christ of no effect. Every time we punish murder by death, we practically deny that Christ's death was a full expiation for every sin — and thereby exclude ourselves from deriving any benefit from it. For he has made the forgiveness of injuries, without any exceptions, whether committed against us in our private capacities or as members of a community, the express condition of our title to the forgiveness that he has purchased for us.

The arguments against the punishment of murder by death from reason remain on an immovable foundation. Our author has contradicted them. He has not refuted one of them. I affirmed in my earlier essay that the punishment of murder by death had been abolished in numerous nations. The data now available to us goes far beyond anything I could have cited then. Over 100

nations have abolished capital punishment in law or in practice. Among nations that retain it, the company is instructive: authoritarian governments, failed states, and a small number of democracies that are, by the measure of every social index, outliers in the developed world. The United States executes people alongside China, Iran, Saudi Arabia, and Egypt. This is not the company that a nation conceived in liberty ought to keep.

The research is conclusive on deterrence. The most sophisticated studies, controlling for variables that earlier research could not, find no relationship between the presence or use of the death penalty and homicide rates. The states in this country with the highest rates of execution are not the states with the lowest rates of murder. The states that have abolished the death penalty have not watched their murder rates rise. The deterrence argument was always an argument from intuition rather than evidence. Now we have the evidence, and the intuition was wrong.

I derived my information on international abolition from sources I am prepared to defend at length. The movement against capital punishment in Europe was not the product of a synod or a religious convocation. It arose from the combined influence of cultivated reason and the slow permeation of gospel values into the structures of civil society. Reason and religion have the same objects. They are in no instance opposed to each other. On the contrary, reason is imperfect religion — and religion is perfect reason.

It becomes Christians to be careful how readily they condemn the virtue of mercy because it is recommended by those they consider insufficiently orthodox. Voltaire

taught the princes of Europe the duty of religious toleration before Christians had worked out the theology. The Marquis of Beccaria, writing in 1764, established the connection between the abolition of capital punishment and the order and happiness of society before the church was prepared to acknowledge it. If anything in the scriptures appeared to contradict these discoveries, one could foresee that the principles of humane legislation would soon have a just preference to the principles and precepts of those who appealed to scripture in defense of the gallows.

Our author attempts to support his sanguinary conclusions by an appeal to revelation. And here I will make two preliminary observations.

First: there is no opinion so absurd or impious that it cannot be supported by isolated texts of scripture. To understand what the Bible teaches on any subject, we must be governed by its whole spirit and tenor, not by the texts most convenient to the conclusion we have already reached.

Second: the design of Christianity at its first proclamation was to reform the world by its spirit rather than by its positive precepts. Our Savior did not forbid slavery in direct terms. He bore an indirect testimony against it by commanding us to do to others what we would have them do to us in like circumstances. He did not aim to produce a sudden revolution in human affairs. He knew too well the power and efficacy of his religion for that purpose. It was unnecessary, therefore, to expose it to additional opposition by direct attacks upon the prejudices and interests of humanity — interests that were closely woven into the fabric of civil government. The gospel works like leaven. It takes time.

The church's slowness to see what the gospel requires is not evidence that the gospel does not require it.

After these observations, I will add only that the statements of Paul before Festus regarding the penalty of death, and the words of the dying thief on the cross, prove only that death was the punishment prescribed by Roman law. They by no means prove that this was sanctioned by the gospel. Human life was extraordinarily cheap under the Roman government. The sword was considered an emblem of public justice — but to suppose from the presence of that emblem, or from any of our Savior's parables, that capital punishment is approved in the new testament is as absurd as supposing that competitive athletics constitutes a Christian exercise because Paul frequently referenced the Olympic games.

The conduct and words of our Savior should outweigh every argument that has been or can be offered in defense of capital punishment for any crime. When the woman taken in adultery was brought before him, he evaded inflicting the prescribed sentence of the Jewish law. Even physical harm to the body appears to have been offensive to him: when Peter drew his sword and struck the servant of the high priest, Jesus replaced the ear by miracle and declared that all who take the sword shall perish by the sword. He forgave the crime of murder from the cross. After his resurrection, he commanded his disciples to preach the gospel of forgiveness first at Jerusalem — a city where he knew his murderers still resided. These striking facts are recorded for our imitation. They seem intended to show that the Son of God died not only to reconcile God to humanity, but to reconcile human beings to one another.

There is one passage more in the history of our Savior's life which would by itself overturn the justice of the death penalty for murder, even if every other part of the Bible had been silent on the subject. When two of his disciples, animated by the spirit of vindictive legislators, requested permission to call down fire from heaven to consume the inhospitable Samaritans, he answered them: "The Son of Man is not come to destroy people's lives, but to save them." I wish those words formed the motto of every nation on the face of the earth. They encompass every duty calculated to preserve — restore — or prolong human life. They stand against war. They stand against capital punishment. The objects of both are the unprofitable destruction of human lives.

How precious does a human life appear from these words, in the sight of heaven. Pause, legislators, when you cast your votes for the punishment of death for any crime. You frustrate in that moment the design of the mission of the Son of God into the world — and thereby either deny his appearance in human flesh or reject the truth of his gospel. You strengthen the arguments of those who reject the particular doctrines of Christian revelation. You preserve a bloody fragment of the Jewish institution. The Son of Man came not to destroy people's lives, but to save them. Excellent words. I require no others to confirm my confidence in the truth and divine origin of the Christian religion. And while I am able to place a finger upon this text of scripture, I will not believe any voice from heaven that might declare that the punishment of death for any crime was inculcated or permitted by the spirit of the gospel.

It has been said that a person who has committed murder has revealed a malignity of heart that renders

them permanently unfit for human society. This is by no means true in many — and perhaps in most — cases of murder. Murder is most frequently the effect of a sudden storm of passion, and has sometimes been the only moral failure in an otherwise peaceable and inoffensive life. There are many crimes that unfit a person far more thoroughly for human society than a single act of murder. And there have been instances of murderers who escaped or outlasted the law who afterwards became peaceable and useful members of their communities. Let it not be supposed that I wish by this observation to minimize the enormity of murder. Far from it. It is precisely because I view murder with such horror that I wish to strip our laws of the power of perpetrating and encouraging it.

Our author has supplied us with a number of cases intended to show that the providence of God is particularly engaged in the detection of murder, and that the confessions of murderers have in many instances confirmed the justice of their punishment. I do not wish to diminish the influence of whatever cautionary beliefs tend to prevent crime. But I will venture to declare that far more murderers escape detection than are caught and punished. The history of wrongful conviction in this country — documented now by the Innocence Project and similar organizations in case after verifiable case — demonstrates not that providence protects us from executing the innocent, but that we have done it. We have done it repeatedly. We have done it to people who confessed under duress. We have done it to people whose cases never received the legal attention they deserved. We have done it in ways that align with every durable pattern of racial injustice

in American life. The acquiescence of condemned persons in the justice of their own execution is not the voice of conscience in harmony with reason and religion. It is the voice of a person who has been ground down by a system designed to produce exactly that result.

The world has certainly been changed for the better over the past two centuries. This change has been produced chiefly by the secret and often unacknowledged influence of Christianity upon the hearts and minds of people. It is instructive to trace the effects of the Christian religion in the extirpation of slavery — in the diminution of the number of capital crimes — in the mitigation of the horrors of war. There was a time when masters possessed power over the lives of their enslaved people. Christianity eventually ended this, though far too slowly and with far too much accommodation to those who wished to retain it. There was a time when torture was a standard element of criminal punishment, and when the number of capital offenses was measured in the hundreds. Christianity reduced them to a handful. It has done more. It has confined capital punishment in some places to the crime of murder alone — and in many countries abolished it altogether. The trajectory is unmistakable. The direction of the gospel is clear. That we have not yet arrived at our destination does not mean the destination has changed.

The influence of Christian values upon the conduct of war has been still more remarkable. Consider its progress: first in protecting women and children from the full violence of military conflict; then in preventing the execution of prisoners of war; then in protecting civilian populations from becoming targets of military action; then in establishing the exchange of prisoners

rather than condemning them to slavery; then in placing limits on the destruction of private property; then in declaring that offensive war is without moral justification. This is the only basis on which war now sustains any claim to legitimacy among Christian peoples. It requires little ingenuity to observe that a purely defensive war cannot be waged successfully without offensive operations. And if that is true, then even this last remnant of justified war must ultimately yield to the spirit of the gospel. Already we see in every international negotiation, every treaty framework, every appeal to international law, the struggle of conscience against the old logic of violence. These events indicate an improving state of human affairs. They lead us to look forward with expectation to the time when the instruments of war will be transformed into the instruments of cultivation — when rapine and violence shall be no more. These events are the promised fruits of the gospel. If they do not come to pass, the prophets have deceived us. And if they do — then war must be as contrary to the spirit of the gospel as fraud, or murder, or any other vice the gospel names and works to extirpate.

I cannot close this subject without remarking that capital punishment is the natural offspring of authoritarian government. Tyrants believe they possess their power by divine right. No wonder, therefore, that they assume the divine prerogative of taking human life. Tyrants regard the people they govern as their property. No wonder, therefore, that they shed the blood of the governed with as little emotion as a rancher sheds the blood of livestock. But the principles of republican government speak an entirely different language. They

expose the absurdity of the divine origin of kingly power. They draw the most distant ranks of citizens toward one another. They restore the human person to God — to society — and to themselves. They revive and establish the bonds of fellow-citizen, friend, and sibling. They affirm the value of human life and increase every public and private obligation to preserve it. They regard human sacrifice as no less offensive to the sovereignty of the people than to the majesty of heaven. They understand the attributes of government, like the attributes of God, to be more honored by destroying evil through merciful means than through exterminating punishments. The United States has adopted these peaceful and benevolent forms of government. It becomes this nation, therefore, to adopt their mild and benevolent principles as well.

An execution in a republic is a human sacrifice offered in the name of religion. It is an offering to monarchy — and to that malignant force which has gone by the name of murderer since the beginning, and which delights equally in killing whether it is perpetrated by the cold and vindictive arm of the law or by the furious hand of private revenge.

DEFINITIONS AND TERMS

Benjamin Rush (1746-1813): Physician, signer of the Declaration of Independence, and one of the most consequential public intellectuals of the founding era. Rush was a founder of the first American antislavery society, the first American to argue systematically against public punishment of criminals, and the first American to publish a sustained argument for the complete abolition of capital punishment. His medical and psychological theories, some of which we now know to be incorrect, should not obscure his moral and political arguments, which remain rigorous and unrefuted.

The first political compact: Rush's term for the foundational agreement by which individuals enter civil society. Drawing on social contract theory, Rush argues that this compact involves the surrender of certain natural liberties in exchange for the protections of organized government — but not the surrender of life, which no one possesses the right to surrender, and which the state therefore cannot claim. The argument is philosophically related to Beccaria's argument in *On Crimes and Punishments* (1764), which Rush had read.

Suicide by execution: Rush's identification, in 1792, of what we now call "suicide by cop" — the phenomenon of individuals who wish to die but cannot bring themselves to act, and who therefore commit murder in order to be executed by the state. Rush

documented this phenomenon from contemporary cases and used it as evidence that capital punishment produces the violence it claims to deter. Law enforcement researchers have confirmed the phenomenon in contemporary studies.

Theocratos: The pseudonym of the minister who wrote a reply to Rush's 1792 essay arguing for capital punishment on scriptural and philosophical grounds. Theocratos has never been identified with certainty. Rush's reply to him, published in 1793, constitutes the second half of the present volume and contains some of Rush's most developed arguments, including his extended treatment of the theological case for mercy and his argument that capital punishment contradicts the doctrine of the atonement.

The doctrine of the atonement: The Christian theological doctrine that Christ's death on the cross constitutes a full satisfaction for the sins of humanity, making possible the forgiveness and reconciliation of human beings with God. Rush's argument is that capital punishment contradicts this doctrine: if Christ's death is a full expiation for every sin, then the state's insistence on additional human death as punishment for murder effectively denies the sufficiency of the atonement and excludes its practitioners from the benefit of Christ's sacrifice. This is one of the most theologically sophisticated arguments in the abolitionist tradition.

The law of Moses and the Noahic covenant: Rush engages two primary scriptural arguments used to justify capital punishment: the Mosaic law

prescribing death for murder, and the command given to Noah (“whoever sheds the blood of man, by man shall his blood be shed”). His response to the Mosaic argument is that many Mosaic laws were accommodated to a particular people in a particular moment of moral development and do not bind later societies. His response to the Noahic argument is that the passage is properly read as a prophecy rather than a command, and that even if it were a command, its context — a world without prisons — does not apply to societies that possess other means of addressing violent crime.

Republican government: Rush’s argument that capital punishment is incompatible with republican principles is among his most distinctive contributions. He argues that execution is “the natural offspring of authoritarian government” — that tyrants execute because they view the people as their property, while republics, which derive their authority from the consent of the governed, have both a philosophical obligation and a practical incentive to preserve the lives of citizens rather than destroy them. The argument has lost none of its force.

The Innocence Project: An organization founded in 1992 that uses DNA evidence and other methods to identify and work toward the exoneration of wrongly convicted people. Since its founding, the Innocence Project has contributed to the exoneration of more than 200 people in the United States. Rush anticipated this argument in 1792 when he observed that “far more murderers escape detection than are caught and punished” and that confessions by

condemned persons are not reliable evidence of guilt. The Innocence Project's work has confirmed that wrongful conviction is systematic, not exceptional, and that it correlates with every durable pattern of racial injustice in American life.

The National Research Council (2012): The National Research Council's 2012 report, *Deterrence and the Death Penalty*, concluded after a comprehensive review of the existing research that studies of the deterrent effect of capital punishment were "fundamentally flawed" and that their results were "unsuitable" as a basis for policy decisions. The report is the most authoritative assessment of the deterrence question in the contemporary literature. Rush reached the same conclusion in 1792 by a combination of reason and limited empirical observation. Two hundred years of additional evidence have not changed the answer.

FURTHER READING

On Benjamin Rush

Hawke, David Freeman. Benjamin Rush: Revolutionary Gadfly. Bobbs-Merrill, 1971. The standard biography. Hawke is sympathetic to Rush's complexity and covers his abolitionist and penal reform work in the context of his broader public career.

Rush, Benjamin. The Autobiography of Benjamin Rush. Edited by George W. Corner. Princeton University Press, 1948. Rush's own account of his life and work, including his involvement in the penal reform movement and his correspondence with the European reformers.

Rush, Benjamin. Essays: Literary, Moral, and Philosophical. 1806. The collection in which Rush gathered his social essays, including the Considerations and other penal reform writings. Available through Early American Imprints and Google Books.

On the Abolitionist Tradition

Beccaria, Cesare. An Essay on Crimes and Punishments. 1764. Edited and modernized by Jeff Hood. Complicit Press, 2026. The foundational text of the modern abolitionist tradition, which directly influenced Rush. Beccaria's argument from social contract theory complements Rush's argument from natural rights and Christian theology.

FURTHER READING

Spear, Charles. *Essays on the Punishment of Death*. 1844. Edited and modernized by Jeff Hood. Complicit Press, 2026. The American antebellum abolitionist argument, which draws extensively on Rush and places his work in the context of the reform movement that Rush helped to found.

Livingston, Edward. *Argument Against Capital Punishment*. 1833. Edited and modernized by Jeff Hood. Complicit Press, 2026. Livingston's argument from Louisiana focuses on the constitutional and natural rights dimensions of abolition — arguments that extend Rush's framework into the specifically American legal context.

Mittermaier, Karl Joseph Anton. *Capital Punishment*. 1865. Edited and modernized by Jeff Hood. Complicit Press, 2026. The most comprehensive nineteenth-century survey of the empirical evidence on capital punishment. Mittermaier provides the comparative statistical foundation for claims that Rush could only make on the basis of limited observation.

On Punishment and American Criminal Justice

Banner, Stuart. *The Death Penalty: An American History*. Harvard University Press, 2002. The definitive historical account of capital punishment in the United States from the colonial period to the present. Places Rush's essay in its historical context and traces the abolitionist movement he helped to found through its subsequent development.

Masur, Louis P. *Rites of Execution: Capital Punishment and the Transformation of American Culture, 1776–1865*. Oxford University Press, 1989. Examines the period during and after Rush’s advocacy, tracing how public attitudes toward execution changed and how the reform movement he helped initiate eventually succeeded in abolishing public executions and reducing the number of capital offenses.

Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. The New Press, 2010. Rush’s argument that the death penalty “aligns with every durable pattern of racial injustice in American life” is documented in detail in Alexander’s comprehensive account of how the criminal justice system has perpetuated racial hierarchy.

Related Volumes in This Series

Darrow, Clarence. *An Eye for an Eye*. 1905. Edited and reset by Jeff Hood. Complicit Press, 2026. The companion fiction volume — Darrow’s novella about a working-class man on death row. Where Rush provides the philosophical and theological argument, Darrow provides the human face of the condemned.

Hugo, Victor. *Under Sentence of Death*. 1829. Edited and reset by Jeff Hood. Complicit Press, 2026. The first-person diary of a condemned man — the fictional counterpart to Rush’s philosophical argument. Hugo’s novel makes the case through experience that Rush makes through reason.

FURTHER READING

Romilly, Samuel. *Observations on the Criminal Law of England*. 1810. Edited and modernized by Jeff Hood. Complicit Press, 2026. Romilly's argument for reducing capital offenses in England, written eighteen years after Rush's essay. The two men were working on parallel tracks — Rush in the American context, Romilly in the English — and both were arguing from the same philosophical tradition.