

## 154. Brown, Garner, and the Application of Biblical Law to Homicide and Murder

*Bojidar Marinov, December 22, 2014*



Both in 386 and in 390, Bishop Ambrose knew what he was against: a centuries-old political machine which had neither internal mechanisms nor external restraint to moderate its cruelty against its own private citizens. The Empire, even under Christian emperors, knew nothing of checks and balances, *habeas corpus*, division of powers between executive, judiciary, and legislature, individual rights, due process, trial by peers, etc., etc., all the legal principles we have today that we have inherited of over a millennium of Christendom. As a matter of judicial and political practices, it was the same old pagan empire. True, the hearts and minds of its rulers had been changing by bits and pieces in the last 60 years since Nicaea, and the laws and practices were changing by the same pace: slavery was abolished (at least on paper), torture was abolished, women received equal status before the Law, abortion was outlawed, etc. But as a rule, the legal practices of the Empire and the conduct – and misconduct – of its officers remained the same: Brutality, cruelty,

tyrannical abuse of power, false accusations against private citizens, official robbery, etc., remained the rule of the day. I said “misconduct,” but really, there wasn’t any legal standard to define such a term: Any person in an official position was allowed to do anything they wanted to a private person, with impunity. A private person was left to the mercy of the official; there was no higher official that would bring charges against a lower official for misconduct or tyranny or abuse of power; neither was there any law that would protect a private individual against the state and its agents. And when the army (which was also police at the time) was involved, no one could hope for any mercy or recourse against cruelty. After all, it was the army that installed and brought down emperors; why would soldiers be afraid of private citizens?

It was not for nothing that John the Baptist chose to instruct the soldiers in three specific things: “Do not take money from anyone by force, or accuse falsely, and be content with your wages” (Luke 3:14). Apparently, when it comes to police, things haven’t change much since John’s time. The government’s standing army was then as brutal to its own citizens as it is today in America. And subject to the same temptations.

Bishop Ambrose knew it all. He was, after all, the son of the Praetorian Prefect of Gaul: the governor of a territory the size of one-fourth of the US territory. Appointed, not elected, which meant he didn’t have to worry about voters and campaigns. Ambrose himself started his career as a member of the Council of Gaul and then Consular Prefect of two provinces; similar to a state governor today. He was

30 years old when he was appointed a governor. He knew how much power a ruler had, and he knew what he was leaving behind when two years later he resigned from his government post to become a church minister.

And he knew how much hope a private citizen had against the state. And yet, 12 years after he left the power and the glory of his government position, he made his first stand against the state: he refused to obey the orders of the Arian Emperor Valentinian II to hand his church over to the Arian bishops in Milan – not even a portion of it. Ambrose and his flock barricaded themselves in the church and prepared to resist the Imperial troops: an act unheard of in the history of Rome. The shock must have been serious if Valentinian, not knowing what to do, rescinded his order.

In this case, he was defending his own church. But 4 years later, he was even bolder. The orthodox Emperor Theodosius had ordered his troops to massacre civilians in Thessaloniki in response to a riot in which government officials were killed by the rioters. Over 7,000 civilians died in the massacre. While for the Romans such retaliation was normative (just as for modern Americans killing a person who resists arrest is normative), Ambrose excommunicated the Emperor. The principle established in his letter to the Emperor was that an Emperor is bound by the same moral rules as a private person, in everything he does. When the Emperor in his wrath demanded that Ambrose surrender his church, Ambrose doubled down on the same principle, defying the order:

none

*It is not lawful for me to surrender it nor good for you, Emperor, to receive it. By no right can you violate the house of a private person. Do you think that a house of God can be taken away from Him? It is said that for the Emperor everything is lawful, that all things are his. My answer is: "Do not, O Emperor, impose on yourself the burden of the idea that you have any imperial power over things which belong to God. Exalt not yourself, but if you hope for a long reign, submit yourself to God."*

It was here where we see for the first time applied in practice (although in theory much earlier, in Romans 13) the doctrine of limited government, government bound by the same *moral* rules as those for individuals, even when the *judicial* rules of the society gave the government unlimited power. Ambrose, as a church minister, self-consciously pointed to the difference between *righteousness* and *legislation*, and declared that he would practically disobey government legislation in favor of divine righteousness. It is here where for the first time a Christian minister declared that "Resistance to tyrants is obedience to God," and not only declared it but acted on it as well, risking his life in the process.

Looking to our own situation today, we can say that we are back to Roman times. There's again a specialized class of people – similar to the Roman legionnaires – who are given special rights to harass, rob, and even kill people without due court process, for "violations" that by the ethical rules of the Bible are not violations at all, and wouldn't even be considered in a Biblical court as crimes. "Resisting arrest," for example. The murders of Michael Brown and Eric Garner are just two of the thousands of testimonies to this effect.

And we can also say that we don't have church ministers of Ambrose's spirit. To the contrary, we have church ministers who declare as moral imperatives the artificial and arbitrary administrative rules of the modern pagan state, confirm the special rights for police to punish acts that are not crimes by the Biblical Law, and excuse crimes committed by the cops with the argument that "they are only

doing their job,” and “If you don’t want to be killed by the cops, do not resist them.” The reaction of the church in the US to the murders of Brown and Garner is an abundant testimony that we are lacking a modern Ambrose.

I have been asked many times why I believe these were murders. After all, wasn’t police just doing their jobs? Wasn’t it just some “homicide,” without necessarily assuming guilt or even malice? After all, the current legislation does empower the police to kill a person “justifiably” under specific circumstances. Wouldn’t that be a good foundation? In the case of Michael Brown, the argument usually brought up is, “We don’t have a video, we don’t have clear testimony of witnesses, therefore we can’t indict Darren Wilson,” assuming, of course, that a killer is innocent by default, unless proven otherwise. (I wonder how that applies to a private killer, and whether a private killer will get the same lenient treatment.) The extremely foolish argument is raised about “experts know better than us, so shut up,” so let’s not judge the cops who kill people in broad daylight, “they are experts, they know better.” In these and many other arguments heard from Christians and conservatives in general, the assumption is always the same: Police has special rights to kill, and we can judge them only when there is a clear proof that the crime is really a crime. Until then, it is a “justifiable” homicide, or confiscation, or anything else, but not a crime, even when an innocent life is taken, or money is taken at gunpoint, or property is destroyed, or a child is disfigured.

But I never look at the situation through the lenses of modern legislation. I want to be like Bishop Ambrose: Understanding the difference between *righteousness* and *legislation*, and whenever legislation opposes righteousness, stand for righteousness in opposition to legislation. And since righteousness in everything, including courts and criminal justice and social order, is determined and defined by the Law of God, I look at the cases of Brown and Garner through the Biblical Law. And I find that if America was governed by the Law of God, both cops would be tried for murder, and would be executed. And if America had pastors like Ambrose, they would demand so.

So, here’s my view on the cases of Michael Brown and Eric Garner from the perspective of the Law of God as revealed in the Bible. I am not trying to dispute any testimony, even those that are most favorable to the killers. But what I see is, even if we take the version of events that is most in favor of the police officers, by the Biblical Law, they are still guilty of murder.

### **No Special Class with Special Executive Rights**

The first issue we need to deal with, of course, is the general issue of whether police should exist at all in its present form. Most pastors today, of course, are illiterate when it comes to the Bible and its judicial texts, so they can’t say. The phrase “Bible-believing Christian” is meaningless for the large majority of pastors and their flocks, given that they don’t really know most of what the Bible says about man and his institutions; at best, what they “believe” in the Bible are a few propositions about man’s individual salvation, and the rest is left to the world and the government (especially the government!) to define for them. Others, who know what the Bible says on the issue, believe that it should be ignored in favor of what the modern culture says, and the government (especially the government!). Either way, the Biblical view on the issue of the existence of a standing army of police as an executive institution is largely absent from the pulpits of America today.

The Bible doesn’t allow for the creation of a government’s specialized standing army for any purposes, whether for permanent warfare against foreign nations or for “maintaining order” at home. Aggressive

wars were forbidden as a government policy, and kings were forbidden from maintaining specialized offensive forces (Deut. 17:16; see also 1 Sam. 8:11-12). Also, there was no provision for a centralized executive power in the land which would determine what “order” was and enforce it. The executive function of government was left to the families and local communities to maintain and enforce, and therefore any “order” in the society was to be voluntary and based on private action and transactions. The function of the civil government was limited to the judiciary, local courts with appellate courts above them, with either the King or the High Priest acting as Supreme Court at the top of the judiciary pyramid. Prevention of crime was not delegated to the government; the Bible recognizes that crime is a moral issue first and foremost, and therefore there would be no institutional solution to its prevention. Prevention therefore was left to moral instruction in the family and in the church, and ultimately, since only God could read the heart of a person, to God Himself. Human courts were only allowed to act when crime was committed and the guilt of the perpetrator could be reliably established by the word of witnesses (Deut. 19:15).

(It is no surprise that the first systematic theory for government prevention of crime came from Enlightenment thinkers, and specifically from philosophers whose goal was the destruction of the Christian influence in the society. In England, the ideas that government can play God and prevent crime were first systematized by the father of modern utilitarianism, Jeremy Bentham, “the English Rousseau.”)

In such a system, a law-enforcing agency is not executive (enforcing rules and regulations) but judicial (carrying out orders of the courts), similar to the US Marshals Service. It doesn’t “maintain order,” arbitrarily deciding on the spot what “order” is; it only executes court orders following court verdicts or decisions. Thus, the concept of “power of arrest” doesn’t exist as an executive privilege; and neither does the multitude of artificial and arbitrarily made up “crimes” related to the “power of arrest,” like “resisting arrest,” “obstructing government administration,” etc. (Ever thought about the idiocy of a crime like “resisting arrest,” when the “criminal” is not guilty of anything else but resisting unlawful arrest?) Thus, the category of “suspect” doesn’t exist in the legal language, and therefore all the rights related to it that the cops have don’t exist. How does a police officer know who is a suspect and who isn’t? The Bible doesn’t allow for such arbitrary legal power given to a special class of people. Without such arbitrary power of arrest and designating “suspects,” thousands of innocent lives would have been spared in the US, who were murdered in cold blood by police officers.

The only time when a person can be legally apprehended and detained is when caught in the very act of the crime, to prevent him from committing a crime, and to make sure he is taken to court. Outside direct prevention of crime on the spot, the only action should be through the courts. Christian Europe after 12th century, until the rise of the modern socialist state in the 20th century, specifically forbade actions against criminals that were not in direct self-defense or following a court decision. The legal category of “suspect,” used today to justify police action, did not exist: a person was either caught in the act, or sentenced on the basis of testimonies, or considered innocent.

Biblically, then, there are no special privileges for police officers to simply stop or arrest individuals based on suspicion. Even if Darren Wilson thought Brown fit the description of the robber at the convenience store, and even if Eric Garner indeed had loose cigarettes for sale, neither of these warranted arrest, and certainly neither warranted death penalty on the street, for “resisting arrest.” A true Bible-believing Christian, then, in order to remain faithful to the Law of God, must consider both cases plain murder, no matter what the current humanistic legal system says.

## The Difference Between Murder and Homicide

Now, some say today, “murder” is a strong word. Let’s say they were “homicides,” may be as a result of the use of excessive force, but not necessarily driven by malice or criminal intent. This claim is based on lack of understanding of the Biblical Law. But does the Biblical Law actually speak of the difference between murder and homicide?

Yes, it does. A special section in the Law speaks about that difference: Numbers 35:15-28. The first part, vv. 15-21, explains the case for murder:

none

*These six cities shall be for refuge for the sons of Israel, and for the alien and for the sojourner among them; that anyone who kills a person unintentionally may flee there. But if he struck him down with an iron object, so that he died, he is a murderer; the murderer shall surely be put to death. If he struck him down with a stone in the hand, by which he will die, and as a result he died, he is a murderer; the murderer shall surely be put to death. Or if he struck him with a wooden object in the hand, by which he might die, and as a result he died, he is a murderer; the murderer shall surely be put to death. The blood avenger himself shall put the murderer to death; he shall put him to death when he meets him. If he pushed him of hatred, or threw something at him lying in wait and as a result he died, or if he struck him down with his hand in enmity, and as a result he died, the one who struck him shall surely be put to death, he is a murderer; the blood avenger shall put the murderer to death when he meets him.*

The second part explains the case for unintentional homicide:

none

*But if he pushed him suddenly without enmity, or threw something at him without lying in wait, or with any deadly object of stone, and without seeing it dropped on him so that he died, while he was not his enemy nor seeking his injury, then the congregation shall judge between the slayer and the blood avenger according to these ordinances. The congregation shall deliver the manslayer from the hand of the blood avenger, and the congregation shall restore him to his city of refuge to which he fled; and he shall live in it until the death of the high priest who was anointed with the holy oil.*

Obviously, the distinction between homicide and murder is in the intention of the killer. But how can we read the mind of a person to know the intention? Since we can’t read minds, the Law gives the solution: *Look at what’s in the hand of the killer, and how it is used.* If it’s a weapon specifically designed to kill (an iron object), the killer must be clearly tried for murder – I say “must be tried,” because there is still a special case of lawful use of weapons which will be examined below. If the weapon was not specifically designed to kill (stone or wood object), but the movements of the killer’s hand showed intention to strike, then he must be tried for murder, again, allowing for the special case of lawful use of weapons. It’s that simple.<sup>1</sup>

The majority of the so-called “justifiable homicides” committed by police officers in the US are the result of self-conscious use of fire arms, or intentional beating with tools that are deadly (“by which he might die”). Under the Biblical Law, therefore, all these killings are not homicides but murders, and the cops who committed them should have been tried and executed, except in the very limited circumstances where the use of lethal force is lawful. Since they are not tried and not executed, this

encourages more and more irresponsibility and beastly behavior among police, which gradually transforms police into a murderous syndicate.

To return to our cases under consideration, when he got out of his SUV to pursue Michael Brown, Darren Wilson had a weapon in his hand. He killed Michael Brown with that weapon. That weapon can't be used for anything else but kill, and he had it pointed against Brown, with the intention to kill. There is no way, Biblically, to call this anything else but murder. Under this law, however, Daniel Pantaleo could have been exonerated for the killing of Eric Garner, for he didn't use any weapon, and therefore could get away with unintentional homicide. While this is true, we will see later that there is another Biblical principle that indicts Pantaleo for murder.

### **The Right and the Wrong Use of the Two-Witnesses Principle**

The lawful use of weapons and killing, of course, is in self-defense. But before we continue with an analysis of the Biblical view on self-defense, we need to cover the Two-Witnesses Principle and its incorrect use by many Christians and conservatives in their views on the Michael Brown case and the decision of the grand jury in Ferguson. The argument they use to support the decision of the grand jury to not indict Darren Wilson is the following: "There was no clear evidence from the witnesses' testimonies that Wilson really committed a murder; and the Bible says that two witnesses are needed to convict a man."

Since the difference between murder and homicide is in the *intention* of the killer, what this argument is saying is that the role of the witnesses is to testify of the *intention* of the killer, not of the facts themselves. While it is true that some witnesses may be closer to one or the other party in a court case and may give insight as to the mental attitudes of one or the other party, in the final account, witnesses are expected to present testimonies of facts, not subjective judgments of attitudes. Judgment of attitudes – since it is the essence of the verdict – must be left to the judges, who need to base it on the facts presented.

In the Michael Brown case, the fact of the killing was clear: An armed man pointed a gun (a tool for killing) at an unarmed man. No matter what the witnesses thought of Wilson's motives and intentions, a jury and a judge based on the Biblical Law need not look farther than that. Numbers 35:15-21: The killer was self-conscious in pointing the weapon and sending the deadly projectile. The case must be tried as murder.

The only defense for Wilson, then, would be a *counter-accusation* against Brown, to make use of the principle of self-defense: "I had to kill him because he was threatening my life." This is an important judicial issue that is seldom taken into account: The resort of a killer to the self-defense principle always includes not one but two accusations and two cases. First, the killer is accused of murder, and witnesses are needed to establish the fact that he did send the deadly projectile into the body of the victim. Second, the killer *counter-accuses* the victim of threatening his life. This counter-accusation now needs its own witnesses for the killer to be exonerated.

Which means that those Christians who supported Wilson's exoneration on the basis of "no clear testimony" are either prejudiced for Wilson, or do not understand the Two-Witnesses Principle. The accusation against Wilson stands, the facts are clear. His counter-accusation against Brown needs reliable witnesses and testimonies. Wilson didn't have them. Not only that but many of the established

facts spoke against him: The distance from the car where Brown's body was found, for one. But more on this when we talk about self-defense.

Therefore, what was clearly established as evidence is enough to charge Wilson with murder. What was not clearly established by witnesses is the lethal threat Brown presented to Wilson. Wilson should have been charged with murder.

### **Self-Defense Is Not an Excuse for Unbridled Counter-Aggression**

The only lawful use of weapons – or any other tool – to kill a person is in the act of self-defense. But we have to be careful: The concept of self-defense in the Bible is not the same as the concept of self-defense of modern American conservatives.

First of all, to anger those conservatives, we need to state the obvious fact: The right to self-defense is not directly stated in the Bible. It is inferred indirectly from general statements of principles and from laws for other cases, but there is no explicit statement of the sort, "If a person is attacked, he is allowed to kill his attacker." In addition to this, the Law of God makes it clear that in personal brawls and quarrels, there is very little to distinguish between an attacker and a defender. The law for personal injuries from quarrels in Exo. 21:18-19 doesn't distinguish between attacker and defender; moreover, it is in the context of the law for murder in vv. 12-14. Since in a quarrel the blows exchanged are always "deliberate" (see v. 14), and since the text doesn't distinguish between attacker and defender, the burden will be on the killer to prove that he dealt a mortal blow in self-defense.

To our modern minds, this may look somewhat unfair to a target of physical aggression. Why would a defender be treated in court the same way as an aggressor?

The answer is that while the Law certainly protects innocent lives, it doesn't do so at the expense of social peace and order. The Law doesn't encourage a person who is the target of physical aggression to eagerly get in a fight and retaliate. By ignoring the difference between an attacker and a defender in a brawl, the Law says to the defender: "Retreat, it's not worth it. Avoid counter-aggression, and flee the fight, if possible. You may be right to defend yourself, but once you get in that fight, there's very little to tell you apart in court from your attacker, if you happen to injure him or kill him." By retreating, the defender has a better chance of avoiding further confrontation; but also, he presents a clear evidence to the court in a possible trial that his intentions were not to injure or to kill. The more he uses his opportunities to retreat and avoid the fight, the more evidence he gives of his peaceful intentions. Of course, in the final account he may be cornered enough to respond lethally; but this must be his last resort. Thus the right to self-defense is preserved, but social peace and order are also protected against both unbridled aggression and unbridled counter-aggression.

The question now is, "Retreat to what line?" There always has to be a line, for unlimited retreat will actually tend to sponsor evil in the society. One line, of course, is a direct threat to one's life, and we will talk later about it, and how we can tell if there's a direct threat. Another line is one's house.

Now, first of all, we need to point out that in itself, the physical crossing of a property line doesn't constitute "violation of property" and doesn't justify "self-defense." Deuteronomy 23:24-25 makes this very clear. It has become fashionable among some statist "theonomists" to use verses for protection of private property (landmarks) to justify the modern statist immigration restrictions in the

US. In addition to the fact such hermeneutic is fallacious (the US government doesn't "own" the territory of the US), it is also true that crossing even the border of private property and even eating of its fruits is not a crime nor a violation of any sort.

The line in the Bible is the house of a person. And even there, the house is not declared a "castle" to be defended by lethal action at any cost. There are very severe limitations. Exodus 22:2-3 speaks to the issue:

none

*If the thief is caught while breaking in and is struck so that he dies, there will be no bloodguiltiness on his account. But if the sun has risen on him, there will be bloodguiltiness on his account.*

So the rule is clear: a thief in the house is fair game at night but protected during the day. The intentions of the homeowner are not mentioned, as in the verses in Numbers 35 we discussed above. Why?

The two key concepts here are "breaking in" and "thief." The house of a man is specially protected against breaking in. But not to the point of allowing unbridled aggression against a person who is only a "thief," that is, his intention is not to harm lives but only property. This explains the difference between night and day in this passage: It would be impossible in the dark to tell whether the person is a thief or an attacker, and therefore the worst is assumed. But during the day, when the homeowner can see the invader, he can tell if he is dealing with a thief or with an attacker who is threat to life and limb.

This brings us to an important conclusion: if a thief can be killed at night because there is no way to tell if he is simply a thief or a violent aggressor, then during the day, when it is possible to tell them apart, it must be lawful to kill a violent aggressor. The question now is: How do we tell a violent aggressor from a thief, and that *before* he has attacked anyone?

The answer to this question should take us back to the same principle of evidence used in Numbers 35: *What's in his hands, and how is he using it?* Does he have a weapon in his hands, like a sword, or a club, or a gun, or an arsonist torch, or does he have a bag to carry valuables away? Obviously, when breaking in a house, an armed person should be considered a threat to life and therefore can be killed. And a person who has his weapon drawn and pointed in a public place, should be considered a possible murderer by default, for the safest guess is he is going to use it. This provides a good incentive for thieves to avoid taking weapons with themselves. And it provides a good incentive for law-abiding individuals to keep their weapons safely sheathed and holstered while in public. Whoever draws first, as the custom of the Old West went, is a legitimate target for everyone else.

This principle is supported by Jesus's words in Matt. 26:51, "all those who take up the sword shall perish by the sword." We have the habit of reading it in a Greek, abstract way, as a general wisdom parable. But in the Jewish mind, conditioned by the ethical/judicial character of the worldview of the Torah, every general principle also had specific judicial meaning ("the one and the many" principle). Jesus expressed in these words the principle that a person who took up sword in public judicially forfeited his life. What is seldom commented upon is also the fact that Peter wasn't arrested for his resistance and assault against government agents. (He'd be shot dead today on the spot.) Why is that? What was the legal principle that saved him from arrest? The answer is: the same principle of self-



defense against people with weapons. All four accounts of the event point to the fact that the “cohort” was armed with “swords and clubs,” obviously fitting the description of “those who take up the sword.” Jesus reminded them that they came to Him with swords and clubs, “as to a robber,” obviously pointing to the fact that they did not have the judicial right to do that. Under the Law, therefore, Peter was right to defend himself and his Master, and this was the reason he wasn’t arrested; there was no judicial case against a man who defends himself against a crowd of armed men who invade a private gathering in the middle of the night. Even if they were government officials on official business. (Which means that, Biblically, killing police officers in no-knock raids on private residences is Biblically justified, even if the courts say otherwise.)

To add to it, Jesus’s words were also aimed at them as much as at Peter, although they would get their judgment – die by the sword – later. Later when? When the Beast of the sea comes to the Land, in Revelation 13. The same words are repeated in Rev. 13:10. Jesus’s warning to Peter was also a prophetic warning to the nation of Israel of what would come upon them within a generation, a warning repeated many times in the eschatological passages of the New Testament.

The last problem to be resolved now is this: What if the mortal threat is not in any weapon but in the physical power of the aggressor? Some people are strong enough to kill with their bare hands. Does that mean we can’t put up resistance to them because we could be later charged in court? What about women or children or elderly people who can’t run fast from a strong aggressor to avoid being attacked, and yet don’t have enough power to resist and may end up dead in a direct encounter? Can they use weapons to defend themselves against an unarmed strong aggressor? This is an important question, not only when we protect life but also in cases of rape or kidnapping. Can we ban our loved ones from defending themselves just because the aggressor is unarmed?

No. The verses we discussed above in Numbers 35 actually admit that a bare hand can be a weapon of murder:

none

*. . . or if he struck him down with his hand in enmity, and as a result he died. . . (v. 21).*

There are disadvantages to trying to kill a person with bare hands, of course, for both parties involved. The aggressor has to come really close to his target; and the target may not know the aggressor’s intentions until it’s too late to run or to warn the aggressor off. Would the defender still be justified in killing the aggressor before it’s too late?

There is no direct answer to this in the Bible, but since the Law of God works through case laws, we need to recognize that this particular case falls under another general category, and it is quarrel, or injury, or hostile encounter between two unequal parties in terms of physical strength. (We assume that, while not impossible, a brawl between two strong unarmed 6’2 men would generally not produce instant death after the first blow. But a brawl between a strong young man and a weak woman, or a weak old man, or a defenseless child is real danger.) We have such law, and while it is about a different issue altogether, it does establish a judicial case relevant to the issue at hand:

none

*If there is a girl who is a virgin engaged to a man, and another man finds her in the city and lies with her, then you shall bring them both out to the gate of that city and you shall stone them to death; the girl, because she did not cry out in the city, and the man, because he has violated his neighbor's wife. Thus you shall purge the evil from among you. But if in the field the man finds the girl who is engaged, and the man forces her and lies with her, then only the man who lies with her shall die. But you shall do nothing to the girl; there is no sin in the girl worthy of death, for **just as a man rises against his neighbor and murders him, so is this case.** When he found her in the field, the engaged girl cried out, but there was no one to save her (Deut. 22:23-27).*

There are two judicial cases here: rape and presumption of guilt. The second one is important to our study here: In the encounter between a stronger and weaker party, the two parties are judged equally if the weaker party had the opportunity to cry for help and didn't. If the weaker party had no one to call for help to, the weaker party is always presumed innocent, because, as the text says, "just as a man rises against his neighbor and murders him, so is this case." Which means, not only the rules for innocence apply to the sexual part of the case, but they also apply in the principles of self-defense against a violent attacker. In other words, if the woman had no one to call for help to, and she had the means to injure or kill the stronger attacker, she would be innocent if she did it. This, of course, leaves the issue open, what if the man wasn't actually guilty? The Law is clear: He is presumed guilty. Which would make men steer away from being alone with women who are not their relatives, alone in remote places, let alone show any kind of aggressive behavior against lone women. The Law protects the weaker members of the society by giving them rights that the stronger members of the society don't have.

Many polities in Christian Europe prior to the 20th century had laws that reflected this Biblical law of inequality of rights; women and children did not fall under the same laws as men when it came to homicide by the use of weapons. (Murder by poison was excluded from these provisions, though.) The customs of the pagan tribes before the advent of Christianity did not give any special protection to women; in fact, court cases were often decided by trial by combat, and women were not protected from being challenged to combat in court. As the church's canon law started influencing the secular laws of the European polities, women and children received rights of judicial protection and special treatment on account of their weaker position. A woman who claimed self-defense in killing a man was automatically considered innocent, even in the absence of witnesses; thus reflecting the Biblical Law quoted above.<sup>2</sup>

So, to summarize the Biblical view of self-defense: Self-defense can't be used as an excuse for unbridled counter-aggression. When you find yourself in a quarrel, get out of it as soon as possible. If you can't get out of it, make sure you have made as many attempts as possible to calm the situation, and only use lethal force in very extreme circumstances. Exceptions to this would be when the intruder or the aggressor are armed and have their weapons drawn, or you can't see in the darkness if they are armed or not. Then, lethal response under the assumption of the worst possible scenario is lawful, and doesn't incur bloodguiltiness. In the case when the aggressor is unarmed but his strength is a sufficient threat for a weaker person, and there are no other people to help or testify, the weaker person is always assumed innocent for any kind of self-defense they may decide to use.

### **Wilson's Counter-Aggression Against Brown**

Let's return now to our specific case under consideration: The killing of Michael Brown by Darren Wilson.

Now, just for the record but really outside this study, I don't believe for a minute that Brown assaulted Wilson in his vehicle and that there was any threat to Wilson. There are no witnesses to testify of that assault, and there are no signs on Wilson's body that testify of any grave assault on him. (A faint red mark on a white man's pinky cheek is no proof of assault. I get worse marks when I bump into a wall in the dark.) Also, given Wilson's personal strength and size, his description of the encounter as "struggling with Hulk Hogan" is simply ridiculous. A true Biblical jury would have laughed at this clear example of the sissiness of a grown-up man who is paid by the taxpayers to supposedly "maintain order." But for the reasons of this study I will assume that Wilson's ridiculous account is true, and the claim for the later "charging" by Brown right before he was shot lethally is also true.

What was missed by all commentators here is that we have not one but *two* encounters between the two men in the course of the event.

The first encounter was when Wilson was in the car and Brown allegedly attacked him, trying to grab his weapon. The first Biblical question would be, in this case, "Do we have a case of a stronger vs. a weaker party?" As a matter of fact, we do. Not in the sheer physical strength of the two parties, for they were not on the street fighting, body against body, but in the technology used. The cop had an SUV and a gun. Let's say he couldn't use the gun right away, because of Brown's sudden aggression. But how could Brown get so close to the vehicle to be able to launch a surprising attack, surprising enough for Wilson to not be able to prepare to defend himself efficiently?

This could happen in one way: If the SUV had stopped very close to Brown, close enough to violate what every person believes to be his "personal space" and therefore instinctively reacts to violation of it by strangers. The way the SUV was stopped and the accounts of at least some of the witnesses do support such version. This in itself could amount to an aggression, given that Brown was in a weaker position, being unarmed and not protected by anything against a heavy vehicle that stopped close to him. This in itself makes a possible case for Wilson initiating aggression. Any single one of us will take such thing instinctively for an aggression; very few of us would not flinch at such a thing. Biblically, then, Wilson will have to explain to a true Biblical court how he, in his vehicle, happened to be within Brown's reach.

Let's suppose he explains that, and Brown really initiated the aggression, hitting Wilson and trying to grab his gun. Self-defense by Wilson was legitimate in this case, and if Brown was killed in the process of this struggle, Wilson would have been free of guilt; after all, by the rules above, Brown was also responsible to break off from the fight – even if he didn't initiate it – and run away from the car.

Well, apparently, that's what Brown did after the first shots were fired. Whatever may have happened in that short struggle through the window of the SUV's door, we see Brown fleeing from the car. After all, his body was found 100-150 ft from the car, and it certainly wasn't dragged there by Wilson. So Brown did the Biblical thing: he fled from the brawl.

*Here the first encounter ends – a clear judicial fact missed by almost all observers.* Whatever Brown's guilt was for the first encounter, he cleared off without leaving any injury on his opponent, himself suffering an injury from Wilson's weapon. This first engagement, though, even if important, is not relevant to the killing, because it didn't end with killing.

*And then the second encounter starts – this time a clear aggression initiated by Wilson, a fact, again, missed by all observers. Wilson, for reasons and intentions known to him only, gets out of the car with a weapon in his hand, and starts pursuing Brown, who had broken off from the fight and is running away. For a man who just escaped mortal danger, this re-engagement is quite strange. In fact, it would clearly show to a Biblical court that Wilson was lying about the mortal danger in the first encounter. A man who just escaped from mortal danger bad enough to be described in such dramatic and epic mythological terms doesn't normally try to get into the heat of the fight again. But Wilson did, and this time we see him with a weapon for killing in his hand, pointed at Brown and sending deadly projectiles against an unarmed person who is retreating.*

There is no way to Biblically justify this behavior. By all Biblical principles, at this point Darren Wilson is the aggressor, armed and hell-bent on murder. There is no self-defense in this second encounter, there is deliberate aggression, a beastly behavior which is dangerous to society, and which has made police be hated by so many people.<sup>3</sup>

Understanding this fact changes the whole picture. Under the Biblical Law, with Darren Wilson out in open, pointing his weapon at unarmed people and shooting, he is fair game for anyone who can and wants to stop him, to the point of killing him. If a thief (unarmed) can be killed at night because it is not clear if he is armed or not, an armed man shooting at a fleeing person in the middle of the day is a clear threat to the peace and order in the society, and therefore must be stopped. Darren Wilson at this very moment was a murderer, and no twisting of testimonies and evidence can change this obvious conclusion. Again, under the Biblical Law, anyone who could shoot him at this moment would have been exonerated, whether Wilson was a cop or not.

Obviously, the issue of whether Michael Brown was really “charging” in his last seconds or not is of no consequence. With a weapon pointed at him by an aggressor, and Brown himself unarmed, Brown's actions can't be taken in anyway to be an “assault” or “aggression.” In fact, even if he was charging, it was legitimate self-defense: trying to cut the distance between him and the aggressor as quick as possible and disarm him before he was hit. If he had reached Wilson, under the Biblical Law, he would have been justified in killing Wilson; after all, by getting out of his car with a weapon in his hand, Wilson fell under the judgment of “whoever takes up the sword.” Under the Biblical Law, Wilson had forfeited his life by coming in open with a naked weapon and initiating aggression. Unfortunately, Brown couldn't make it.

In any case, under the Law of God, there is no other conclusion but that Wilson is a murderer and should have been tried as such. He can't legitimately use the excuse of “self-defense.” He wasn't defending himself when getting out of that car with a naked weapon, pointed at unarmed people.

### **Pantaleo and the Goring-Ox Principle**

Now, those who watched the amateur video of the killing of Eric Garner by Daniel Pantaleo would be concerned by now, because that killing was not done using a weapon, and was not done by hitting the victim that he dies. It was done using a maneuver called “chokehold” which normally wouldn't be lethal, and in was lethal in Garner's case because of Garner's personal health issues. Should we try Pantaleo for murder under the Biblical Law?

Yes, we should. The Biblical principle for this case is a judicial principle that establishes the relation between prior knowledge and presumption of guilt, expressed in the case law of the goring ox:

none

*If an ox gores a man or a woman to death, the ox shall surely be stoned and its flesh shall not be eaten; but the owner of the ox shall go unpunished. If, however, an ox was previously in the habit of goring and its owner has been warned, yet he does not confine it and it kills a man or a woman, the ox shall be stoned and its owner also shall be put to death. If a ransom is demanded of him, then he shall give for the redemption of his life whatever is demanded of him (Exo. 21:28-30).*

Obviously, in this case the intention of the owner is irrelevant to the case because he did not directly kill the victim. And in case the ox had no history of killing, the owner was free of guilt and couldn't be indicted.

The problem is when the ox had a previous history and the owner had been warned about it. In that case, letting that ox roam freely with the knowledge that it is dangerous to other beings was criminal negligence. And criminal negligence in the Law of God gets the same punishment as murder.

While chokehold is not necessarily a lethal maneuver, it was banned by the NYPD internal rules. There must have been some reason for it to be banned, and I assume it is because of previous history of people being killed by it. For Pantaleo to use it, meant that he chose to disregard both the rules of his own department (so much for police asking *us* to obey the laws when they don't obey even their own rules) and the warning of its dangerous nature. Whether his intention was to kill or not, it is irrelevant to the issue: the prior knowledge of the maneuver as a "goring ox" is enough to indict him. Under the Biblical Law he would have been sentenced and executed.

With one significant exception. Since the Law allows for the possibility that the killer in this case (or the owner of the ox) didn't act with evil intentions, and since the family of the victim would need every help they could get in terms of support, the Law allows the killer to redeem himself at the request of the family. While this won't restore the lost life, it would certainly help – through a sort of redemption and forgiveness – preserve the life of a person whose intentions have not been proved to be evil; and it will also help preserve the peace in the society by compensating the widow of the victim for her loss of income.

A Biblical court, then, would sentence Pantaleo to death but would allow him to make an offer to Garner's widow and children, to negotiate for his life. Or she would be allowed to demand compensation in exchange for his life. Of course, under the Biblical Law, all this compensation would come from his own assets or future income, not from the taxpayers. But unlike Wilson who was clearly a murderer and should have been executed without a chance for redemption, Pantaleo would have had that chance.

### **"They Are Only Doing Their Jobs"**

One last issue remains to be resolved: The argument that this all is under the Law of God, but our legal system is not based on the Law of God, and according to that legal system, the cops have specific

obligations which don't always correspond to the ethical and judicial principles of that Law. Should we then declare them guilty, if by the laws to which they serve they are blameless?

This question is the same question as: "Do we have the moral right to judge the Nazi concentration camp guards if by their own government laws, they were blameless?" While it is true that cops are not all like Nazis (and I really don't argue for such a thing), the more important question remains: *Could human legislation be an excuse for violating the Law of God?*

In Biblical terms, the question would be based on Leviticus 18:24 and 20:23: *Did God have the moral right to judge pagan nations for violations He has stated in His Law to the Israelites, when by their own pagan standards these pagans were blameless?*

The answer is: God doesn't justify anyone based on their obedience to man-made standards. If the man-made standards disobey the Law of God, then obedience to those standards is sin. And the church should preach so. Whether the grand juries exonerated Wilson and Pantaleo is of no consequence. The church should preach their guilt and should continue to demand their indictment and fair trial for murder.

## **Conclusion**

In short: Under the Law of God, Darren Wilson would have been tried for murder and executed. He wouldn't be granted special privilege to arrest people or kill them on the street based on mere suspicion. His use of a deadly weapon would have been enough to convict him of murder. His aggression in exiting his car and pursuing an unarmed person would have been enough to convict him of murder. He won't be able to use the excuse of "self-defense" because in that act of exiting the car he was already the aggressor himself. And Pantaleo would have been tried for murder but with the option to redeem his life by paying indemnity to Garner's family.

The only reason they got away with it is because our legal system is geared to serve the state, not to serve justice as a Biblical system would be. And the only reason the churches remained largely silent or complicit is because they have no king but the state.

If Bishop Ambrose appeared in America today, he would see that the principles of limited government subject to the same moral rules as those for private individuals which he worked so hard to establish, and which we have inherited from our Christian forefathers, have been lost in our nation. And contrary to many Christians who like to blame the liberals and the Democrats, the real blame lies on the American church, which has lost its understanding of the Biblical principles in the area of civil government. And while some pastors may sometimes talk abstractly about liberty and limited government when they speak about the American revolution, they forget about those in the practical matters of our day. This especially visible in the overall idolatry of police among American Christians. Somehow, the moment police is mentioned, American Christians forget about their commitment to liberty and hatred to tyranny, and are eager to justify and excuse police misconduct, contrary to common sense, and contrary to the Law of God.

That the churches in America remained silent on the cases of Eric Garner and Michael Brown, or that some even took the side of the government, was a clear testimony that we have lost the legacy of men like Bishop Ambrose who stood against the government even when there were no legal checks and

balances on anything the government would do. And not only we have lost that legacy, but we are also lacking men of Ambrose's spirit and courage. We are all statists now, excusing our statism with a corrupt reading of Romans 13, that Paul somehow advocated submission to pagan Rome. And our government has taken advantage of this theological error and has grown to resemble Rome more and more, feeding on the false theology of submission preached from our pulpits.

That so many church leaders just accepted the government's version of these killings shows that the Law of God is not valued at all, in our own churches. And that some self-styled "theonomists" accepted it, instead of going to the Law of God for wisdom and teaching, shows that for them, "theonomy" is only an abstract concept which can be misused at will to support their prevailing cultural and statist prejudices; but the Law of God is certainly not a concrete ethical/judicial reality which can inform our society today in every single thing we do, including criminal justice and civil government.

Yes, there indeed is apostasy in America today. It's in the churches, and in their abandonment of Biblical justice and righteousness. Liberals and socialists are not our greatest enemy. We are, and we have no one else to blame.

There is another Biblical passage that deals with the difference between murder and homicide, that of the case of beating a slave in Exo. 21:20-21. This passage can give us some important insight on this legal issue but in my opinion, it is of only secondary importance to this study. In any case, since most victims of police killings die the same day, this passage would additionally incriminate the killers as murderers. [D]

Many thanks to Harold Berman and his book, *Law and Revolution*, for this information. [D]

A relevant case where a police officer was charged with murder for initiating aggression and killing a person can be found here: <http://www.truthrevolt.org/news/sc-jury-indicts-white-officer-killing-black-man-media-ignores>. Darren Wilson's actions at exiting his vehicle are no different in principle from the actions of Richard Combs in this case. [D]