Reformed Theology and Theonomy - some comparisons

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The purpose of this article is to examine the differing views on the OT Penal Code within Reformed circles. This issue is one which has been hotly debated in the American church over the last few decades with the rise of Theonomy in Reformed circles and beyond - with many charismatics and baptists being attracted to the movement. Theonomy has also gained a foothold in the UK with the propagation of theonomic views in a regular magazine. Theonomists and their opponents have brought disharmony and schism to the church making it an issue which requires attention. Furthermore, rising crime keeps law and order on the political agenda, making the teaching of the Bible on civil justice especially relevant.

Discussion in this article will be restricted to the differences in the views traditionally held by Reformed Christians and those held by Theonomists. Particular consideration will be given to the relevance of OT penalties in the modern nation state, with adultery being taken as an example. As the penal code is part and parcel of OT law, it will be necessary to consider the wider issue of the relevance of OT law as a whole. Differences will be highlighted in the following areas: Law in covenant theology, law and fulfilment, the underlying principles of Mosaic penology and its contemporary relevance.

Comparing traditional Reformed understanding of the Mosaic civil code with theonomic thought is not a straightforward task, due to the diversity within Reformed thinking itself. However, there are certain aspects on which Reformed thinking has taken a consistent line - a line consistently different from that of Theonomy. Before focusing on these differences it should be pointed out that theonomic covenant theology is not a total perversion of Reformed covenant theology. There is more agreement than disagreement between the two. Nevertheless it is this disagreement which results in different conclusions on OT law.

Axiomatic to theonomic covenant theology is Bahnsen’s assertion that “We should presume that Old Testament standing laws continue to be morally binding in the New Testament, unless they are rescinded or modified by further revelation.” He outlines the basis for this axiom in “Continuity Between the Covenants on the Law” (Chapter 15 of *BY THIS STANDARD*).

He argues that “God’s law is perpetual in its principles” and is not only a Mosaic institution. The law can be seen in the pre-lapsarian order, the patriarchal period and the Mosaic administration. The law in all these periods reflects the immutability of God. Hence it is not to be abrogated unless the NT specifically commands it. On a superficial level there seems to be little difference at this point between Bahnsen and Reformed theology, with similar language being used by Reformers and Federalists. However, Bahnsen’s use of “law” is ambiguous. When the Federalists spoke of law in this way they generally were referring to natural law and not biblical law as is the case with
Bahnsen. They saw continuity between law in the covenant of works and in the civil law, on the basis that natural law was enshrined in the civil law. The Westminster Divines did not appeal to the civil law on the grounds that it was still binding. Rather they were making indirect appeal to the perpetual principles of natural law, recognising that the Mosaic civil law was an infallible interpretation of natural law, being uncorrupted by depraved human thought. It therefore appears that while the Federalists saw pre-lapsarian natural law enshrined in post-lapsarian civil law, Bahnsen sees the entire post-lapsarian civil law enshrined in pre-lapsarian natural law. This leads to the conclusion that the civil law itself is the unalterable law of nature which is written on the heart of man (Rom 1:18-21).

Bahnsen asserts that the “law given through Moses served the Abrahamic covenant of promise, rather than being antithetical to it.” While the majority of covenant theologians would agree that the law served the promise, few go so far as to deny that there is no antithesis whatsoever. However, when Bahnsen goes on to assert that “the Abrahamic promise ... serves the purposes of the Mosaic law” he is more seriously out of alignment with Reformed theology. The implication in these statements is that the promise was at points subservient to the law or at best equal. Whilst Reformed theology has indeed upheld the “works” principle in the Mosaic covenant, law was always understood to serve the promise and never the other way round. To suggest that the promise serves the law implies that the law has the goal of redemption in itself. Although faith and works are inextricably linked in biblical theology, the law serves the promise. It is the promise itself which has the goal of redemption. Furthermore, in Reformed thought the principle of inheritance by works in the Mosaic era is especially typical of the work of Christ, which fulfils the law and achieves eternal rest for the people of God in the heavenly Canaan. In other words, just as the children of Israel had to obey God’s law in order to enter Canaan and remain there, so Christ had to live in perfect obedience in order that he and his people might enter eternal rest.

Law and Fulfilment
Theonomic exegesis does not stress that the kingdom of Israel was typological both covenantally and ethically. This situation is largely brought about by their view that church and state were separate in Israel. Bahnsen asserts that the “alleged merger of church and state in the Old Testament is simply based on little familiarity with Old Testament realities as presented in Scripture.” He is correct to see a distinction between cultic and state activities, but it does not necessarily follow that the cultic functions equal the church in both old and new administrations, whilst the state of Israel is the same as any other state. Reformed theologians do recognise continuity between Israel and the church, but the church continues from Israel as a theocratic nation (seen for example in the king having both cultic and civil functions), not just from the cultic function of Israel. The result of the theonomic division of church and state is that the unique covenantal setting of the civil law is barely recognised. Hence, it can easily be uprooted and replanted in any culture.

Reformed thinkers and theonomists place a different emphasis on the pedagogical function of the law and the nature of its fulfilment in Christ. Bahnsen’s normative perspective brings him to see the letter of the law as having abiding relevance on all nation states. He does not see its pedagogical role as unique to Israel. Rather its pedagogical function is individual and continuous, convicting the believer of sin and
bringing him to seek Christ. This position is similar to that of William Tyndale and Robert Dabney who, like theonomists, tended to view the law outside its redemptive-historical context. Their understanding is based on a popular and often romanticised misinterpretation of Galatians 3:24, which suggests that the preaching of the gospel consists of thundering the law at sinners and then calming their fears with the sweet promises of the gospel. 

The majority of Reformed theologians see the law as having a special pedagogical role in redemptive history. Galatians 3:24 is understood to speak of the law as a means of showing Israel her sin and bringing her to look for the consolation of Israel. Therefore the coming of Christ brings the cumulative fulfilment of the law a stage further forward and abrogates that particular tutelary role of the law. Calvin understood this abrogation in the sense that “it is not to believers what it formerly was; in other words, that it does not, by terrifying and confounding their consciences, condemn and destroy.” Karlberg shows that Puritan Tobias Crisp held a similar view: “With the coming of Christ at his incarnation, the full manifestation of God’s redeeming grace to sinners terminates the need for the pedagogical use of the law in the history of redemption.” It is the theonomists’ failure to understand this that brings them to affirm the continuing validity of the law in its every detail.

Differences in the understanding of fulfilment also surface in relation to the penal code itself. Reformed writers see the penalties as being typical of God’s judgment on sin in the substitutionary work of Christ and the final judgment. Like the sacrifices, the penalties were parabolic in character serving the pedagogical function of bringing the spiritually minded to look for a penal substitute. The penalties had the principles of reconciliatory restitution and retribution at their core. Christ bore that penalty for his people. Those who reject Christ will spend eternity suffering retribution and seeking to do the impossible task of paying restitution to an offended God. While theonomists do point out that principles of divine justice are embedded in the law, they do not highlight the principle of typology, bringing them to argue that Mosaic penology is the standard for today’s state.

Vital to Bahnsen’s case for the “abiding validity of the law in exhaustive detail” is his exegesis of Matthew 5:17-19. Gordon is correct when he states that “if Bahnsen cannot make his case from this text, his case is not made.” Bahnsen argues that ton nomon cannot be restricted to the moral law, but that it covers the entire Mosaic code. The next phrase, tous prophetas, is understood to refer to all non Pentateuch books, but not to predictive prophecy, only “the ethical standards of the entire Older Testament.” He continues with exhaustive discussion on the meaning of plerosai, reaching the conclusion that plerosai stands in opposition to katalusai (abolish) and therefore means “confirm”. To prove that his translation is not a theonomic peculiarity he calls Calvin to his defence.

Bahnsen finds further support for the theonomic thesis in the verse 18. Jesus did not merely “confirm” the broad principles of the law but every jot and tittle. Indeed he could do little else, for the law in all its detail will stand till the end of days. He argues that the final phrase should be translated “till everything comes to pass” and suggests that the translation “until all is fulfilled” is a perversion. The reason for his antipathy to the latter translation is that it can be interpreted as referring to the work of Christ rather than the parousia.

Bahnsen’s gives the impression that the Reformed tradition since the days of Calvin
supports his exegesis of this passage and his conclusions. However, both Bahnsen’s understanding of the nature of confirmation and the conclusions he reaches differ from those of Reformed theology.

First of all, his understanding of *tous prophetas* is markedly different. Although the scope of the phrase “law and prophets” may vary in scripture, Bahnsen engages in the eisegesis of which he accuses others, when he restricts the meaning to “ethical stipulations.”

The pivotal argument for Bahnsen is his assertion that *pleroo* should be translated “confirm”. Apart from the fact that his translation cannot make sense without reading “ethical stipulations” into “prophets”, Vern Poythress has shown that the semantic evidence he presents is weak and that the standard lexicons are correct in supplying “fulfil”. Whilst Bahnsen’s claim that Calvin and others spoke of Christ confirming the law it is clear from their overall theology of law that they were not saying what Bahnsen is saying. This can be seen when Bahnsen quotes from Calvin and Vos where both are referring to the entire covenant rather than the law itself. Furthermore, the quote from Calvin shows that he uses confirmation in the sense of fulfilment or evidence of true prophecy.

The Underlying Principles of Mosaic Penology

Theonomists and their opponents are agreed that undergirding biblical penology is the divine principle: “I will do with you as you have done” (Ezek 16:59; Obad 1:15). This manifests itself in the *lex talonnis*: “life for life ...” (Ex 21:23-25). It is this *lex talonnis* principle of “perfect legal reciprocity” which is seen in Mosaic penology. Harsh punishments seen in other Ancient Near Eastern states such as cutting off hands for striking one’s father or a nurse’s breast being cut off over contractual disagreements are not found in biblical penology. Nor were there different standards for rich and poor. Restitution is the main outworking of this reciprocity. This is clear in cases of both accidental damage and theft (Ex 21:33-22:15). In the case of accidental damage where no harm was intended, single-fold restitution is required, with the damaged animal or goods being replaced. In the case of theft two-fold restitution was the common penalty. Single-fold restitution would not bring justice. If the thief simply returns the stolen property he suffers no loss. It is not done to him, as he sought to do to his victim. Justice is only done when he experiences the loss which he sought to inflict on another. In situations of serious theft when the animal stolen is necessary for life, restitution is four or five-fold, reflecting the gravity of the offence. The same principle is seen in capital punishment for murder. Although perfect justice cannot be achieved in time, as the murderer cannot restore the life he took, he can be made to suffer as his victim suffered. Mosaic penology did not exist simply to administer pure justice. It served to restore harmony and peace to the community. Van Ness points out that *SHILLUM* (restitution) was to bring *SHALOM* (peace), for justice and righteousness bring peace (Is 32:16-18). OT justice did not give the criminal pariah status, it reintegrated him into society. Its ultimate aim was the reconciliation of individuals.

The Contemporary Relevance of the Penal Code

Having considered the approaches of various sectors of the Reformed community to OT law in general, it is now possible to discuss the penal code itself. The theonomic belief that the civil code, “even its jots and tittles, has contemporary
obligation” makes it inevitable that theonomists will argue for the abiding validity of all Mosaic penology. Bahnsen does not believe that the Mosaic penalties allowed for any commutation. If they were just in Israel, they are just today - moral absolutes do not change. Vern Poythress argues for a more flexible approach. Following the Reformed tradition he views the laws from both a normative and situational perspective. Hence he sees the death penalty as valid for crimes such as murder or "wholesale violation of parental authority". However, penalties for false worship or Sabbath breaking were unique to the situation of Israel as a holy community, of no relevance to the modern state. In his discussion of the Mosaic penalties in Hebrews, Dennis Johnson does not go as far as Poythress. He concentrates on the typological aspect of penalties, seeing the antitype in church discipline. He believes that the "justice of these sanctions is specially qualified by the covenant bond". He apparently views the penalties only from the situational perspective.

Case Studies
Most of those holding to the traditional Reformed position would concur with the theonomic view that OT law could be of benefit to contemporary Western society. Both camps could agree that it would be of benefit to society and prisoners if restitution were to be used instead of imprisonment as a punishment for theft. Similarly, few would object to the argument that biblical standards of evidence should be adopted. Mosaic law insisted that two or three witnesses were necessary before anyone could be put to death (Num 35:30; Deut 17:6; 19:15). English law allows for conviction on the basis of only one piece of evidence (Scottish law requires two). If the biblical principle had been followed some of the best known cases of wrongful execution in British legal history would never have occurred. Agreement, however, is not reached so easily in every case. Whenever a theonomist declares his belief in the continuity of Mosaic penology in the case of adultery, someone objects: "But what about the woman taken in adultery?" (John 8:1-11). Bahnsen believes that it strengthens rather than weakens the theonomic case, as Christ upholds the law demanding two or three witnesses (Deut 19:15), of which there were none after the departure of the accusers. The implication in the question: "But what about the woman taken in adultery?" is that Christ abrogated the death penalty for adultery. This is by no means clear and Bahnsen’s arguments are not unreasonable. Dan McCartney in his contribution to THEONOMY - A REFORMED CRITIQUE does not argue that the penalty was abrogated but that Jesus shows his typical concern with heart application of the law. Both positions have weaknesses. Arguments concerning Christ’s attitude to the law are a major irrelevance. Until the veil of the temple was torn, all old covenant laws still stood. How could Christ have abrogated the penalty of the law before he had fulfilled it and changed its role in the inauguration of the new covenant with his blood? In order to atone for sin Christ had to live in complete conformity to these laws and could only uphold them (e.g. Lk 5:14). The theonomic argument that Christ upheld the laws no more supports their case than it would to argue that Moses did. On the other hand, the anti-theonomic Reformed argument that Christ was concerned with heart obedience does not support the Reformed case. Christ, like Jeremiah (Jer 4:4) and Moses (Deut 10:16), was simply pointing out that God wanted religion of the heart and not only external
conformity. The question therefore remains: "Should adulterers be put to death?"
In considering whether any Mosaic penalty is essential to the "general equity" of the law, the Reformed interpreter asks: "Is this penalty unique to the situation of Israel as the covenant people of God, or is it normative for all nations at all times?" In certain cases the penalties are clearly situational in view of their primary religious significance (Ex 31:12-17; Deut 13:5). Other penalties such as the death penalty for adultery (Lev 20:10; Deut 22:21-24) are not so simply dealt with.
This penalty may seem harsh to the contemporary Christian whose values have been shaped by a society which treats adultery as "a silly indiscretion" (John Major on Tim Yeo's affair). But at the heart of this law is the principle of "a life for a life". Someone who commits adultery with a married woman violates the closest relationship which two humans can have. Marriage makes two people one flesh (Gen 1:24). If that relationship is penetrated by a third party, the joint existence and life of the married couple is so destroyed that the destruction of the adulterers is a just penalty.
This issue might appear to be complicated by the Mosaic allowance of divorce for immorality (Deut 24:1-4), but this is not the case. Gary North provides a cogent argument that the frequent pleonasm "he shall surely die" could be relaxed if the victim so desired. He sees the principle of victims being allowed to show mercy as a human reflection of a God who shows mercy. The fact that the Mosaic law allowed for two possible outcomes in the case of adultery points to an inbuilt flexibility; what North calls "victim's rights". Death was the maximum penalty; the minimum was mercy on both parties.
There is no reason why this penalty should be seen as entirely situational. Most modern states do not have any law against adultery but allow divorce in the case of marital infidelity. In terms of Mosaic law this is not unjust. Nor would it be unjust for a state to allow capital punishment in the case of adultery, unless the state failed to allow for "victim's rights". Clearly theonomists would happily see the death penalty for adultery. Others who hold to the Reformed position hesitate. Poythress states: "I believe that there is room for debate on this matter." In any case it is unlikely that any Western nation would allow for such a penalty. Nevertheless states could enact laws which serve to protect the sanctity of marriage and make the consequences of adultery disadvantageous for sexual infidels.

Conclusion
This examination of contemporary Reformed approaches to the OT penal code has compared both the theonomic and traditional arguments. Two things stand out:
First, the theonomic claim to be standing in the Reformed tradition is false. It has been demonstrated that theonomists differ from Reformed divines in many areas. Indeed Calvin would consider their views "perilous and seditious", "stupid and false". Another feature of the debate is that while Reformed theologians have often been successful in disproving certain tenets of theonomy, they have failed to show how their own framework works in practice, THEONOMY - A REFORMED CRITIQUE being an example. The only recent Reformed work which has given proper consideration to the practical outworking of Mosaic civil laws is Poythress' THE SHADOW OF CHRIST IN THE LAW OF MOSES. Perhaps the reason why Reformed writers are so hesitant at this point is that they are afraid of the conclusions which might be reached.
Ultimately, the difference in practice between theonomists and Reformed theologians
can be reduced to their understanding of "general equity". It is a popular misconception that theonomists wish to apply every case law in a wooden, literal way. Essentially the difference is that theonomists see every civil law as still standing, putting 20th century individuals under obligation to work out the "general equity" of every law and enforce it today (i.e. one hundred OT laws equals one hundred laws today). On the other hand, Reformed theologians do not hold to such strict continuity and seek to apply the "general equity" of the entire corpus juris. This means they may find the same "general equity" in ten Mosaic civil laws and apply that in establishing one or fifty civil laws today. Even this difference in practice is not as great as is popularly imagined. In seeking to extrapolate the "general equity" of specific laws there is much agreement. The real differences are to be found in the heart of the theological frameworks. Until this is understood little progress will be made in resolving the theonomy debate.

References
1 The article consists of extracts from a larger piece of work A SURVEY OF CONTEMPORARY REFORMED APPROACHES TO THE OLD TESTAMENT PENAL CODE AND ITS APPLICATION TO THE MODERN STATE. Copies are available from the author.
2 One example of this is Tom Brewer a frequent contributor to THEONOMY-L (a theonomy discussion list on the Internet) who signs himself off as "Baptist Irritant".
3 CHRISTIANITY AND SOCIETY - previously CALVINISM TODAY
4 Further discussion of these issues, New Testament Law Citations and eschatology can be found in A SURVEY ...
5 For a succinct overview of the history of Reformed thinking which demonstrates this diversity see Mark Karlberg’s article: ‘Reformed Interpretation of the Mosaic Covenant’ in WESTMINSTER THEOLOGICAL JOURNAL 43, 1980, pp 1-57
6 He uses this expression to distinguish between laws which were enshrined in the Mosaic code and commands which were only relevant on one specific occasion
7 Bahnsen, Greg L, BY THIS STANDARD, Tyler, Institute for Christian Economics, 1985, pp 345 -6
8 ibid, p 146
9 ibid, p 147
10 ibid, p 287
11 Vern Poythress helpfully points out in his contribution to THEONOMY - A REFORMED CRITIQUE that theonomists’ exegesis is strongly influenced by their emphasis on the normative perspective. This perspective presupposes continuity in time and space, making the civil law normative for all ages and all nations. This is the opposite of intrusionist exegesis which is controlled by the situational perspective, presupposing discontinuity in time and space as a result of Israel’s special relationship to God. Israel is seen to be the type of which the consummate kingdom of God will be the anti-type. The Mosaic code was an intrusion of ethics from the heavenly kingdom, into the typological kingdom. Traditionally Reformed covenant theologians have combined both the normative and situational perspective, enabling them to recognise that whilst the civil law has abiding principles ("general equity"), continuous in space and time, it served the unique purpose in God’s convenantal dealings with his people of leading them to
Christ. Hence, according to Reformed theology only the “general equity” of the civil law was a standard for all nations.


13 For an example of this approach at its worst see Schenk, L B, THE PRESbyterian DOCTRINE OF CHILDREN IN THE COVENANT, New Haven, Yale University Press, 1940 who gives the following quote from Gilbert Tennent which shows how this understanding of the law affects practice: “Conversions, which are not preceded by a Work of the Law, are either in general, strong workings of the Fancy and Affections, mov’d in a natural way as in Tragedies; or the common Workings of the Spirit as in time Believers, and stony ground Hearers; or a Delusion or Satan!” p 64


19 ibid, p 78

20 see Gordon’s helpful comments on the prophets as “executors of the Sinai covenant” ‘Critique of Theonomy: A taxonomy’, WESTMINSTER THEOLOGICAL JOURNAL 56, 1994, p 29


23 “By these words [Matthew 5:17] he [Christ] is so far from departing from the former covenant, that on the contrary, he declared that it will be confirmed, and ratified, when it shall be succeeded by the new.”


25 ibid, Law 194

26 ibid, Laws 203-5


30 ibid, p 190
In 1993 the British taxpayer spent £1,288,300,000 on the prison system - £28,117 (avg) per prisoner per annum. Figure from THE PRISON SERVICE ANNUAL REPORT AND ACCOUNTS 1993/1994, HMSO, London, 1995

In the UK 43% of male prisoners lose their partners and families. See: ‘Relational Justice - a new approach to penal reform’, INSIGHT, Cambridge, Jubilee, 1994

For the description of the principles which undergird the prison system see: Van Ness, Daniel W. ‘The Development of the Penitentiary’, CRIME AND ITS VICTIMS, Leicester, IVP, 1986


This is of course a much debated area. Some argue from Matthew 19 that Jesus changed the law on adultery and others that he abolished the Mosaic divorce laws. Mark 7:1-23 is another passage which, it is argued, proves that Jesus changed laws relating to unclean food. However, Jesus could not change the law since he explicitly stated: “I did not come to abolish, but to fulfil.” Fulfilment is different from abolition and could only be achieved in Christ’s being treated as unclean on Calvary. Although Mark 7:19 may create some perplexity for the Reformed exegete, he recognises that “all things in Scripture are not alike plain in themselves” and that Scripture interprets itself. Hence the clearer idea of fulfilment takes exegetical and theological prominence. For more detailed discussion of Mark 7 see: Lindars, Barnabas, (ed) LAW AND RELIGION, Cambridge, James Clark, 1988. Also see: Schreiner, Thomas, THE LAW AND ITS FULFILMENT, Grand Rapids, baker, 1993 Schreiner does not make clear whether he believes the laws were abolished before or after Calvary.


Calvin, John, INSTITUTES OF THE CHRISTIAN RELIGION, Book 4, 20, 14, Grand Rapids, Eerdmans. 1970

Greg Bahnsen confirmed in conversation that as far as he was concerned, my understanding of this difference is correct.

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If laws need to be luminous and definite in secular societies, where only temporal issues are concerned, and such laws have in fact been bestowed by Divine bounty upon all the world, how should he not give to Christians, His own people and His elect, laws and rules of much greater clarity and certainty by which to adjust and settle all issues between them?

M Luther, THE BONDAGE OF THE WILL, p 126