

CAPITAL PUNISHMENT CATECHISM REVISION: Development, Rupture... or TROJAN HORSE?

**“The Catholic Church is the only thing
which saves a man from the degrading
slavery of being a child of his age.”**

G.K. Chesterton



Crucial Importance of Hearing ‘the Other Side’



I suspect many don't know what the Church has always taught about capital punishment...and accepted as Divine Revelation. They don't know about the extensive evidence for this in the natural law; Sacred Scripture; the Fathers, Doctors, popes; etc. And they've never heard the arguments in support of the teaching.

Lyn and I intend to address all of this.

And since so few have had an opportunity to hear ‘the other side’ of this important issue, we want to take full advantage of the time we have tonight. So we ask you to hold your questions and comments until we both finish with our talks.

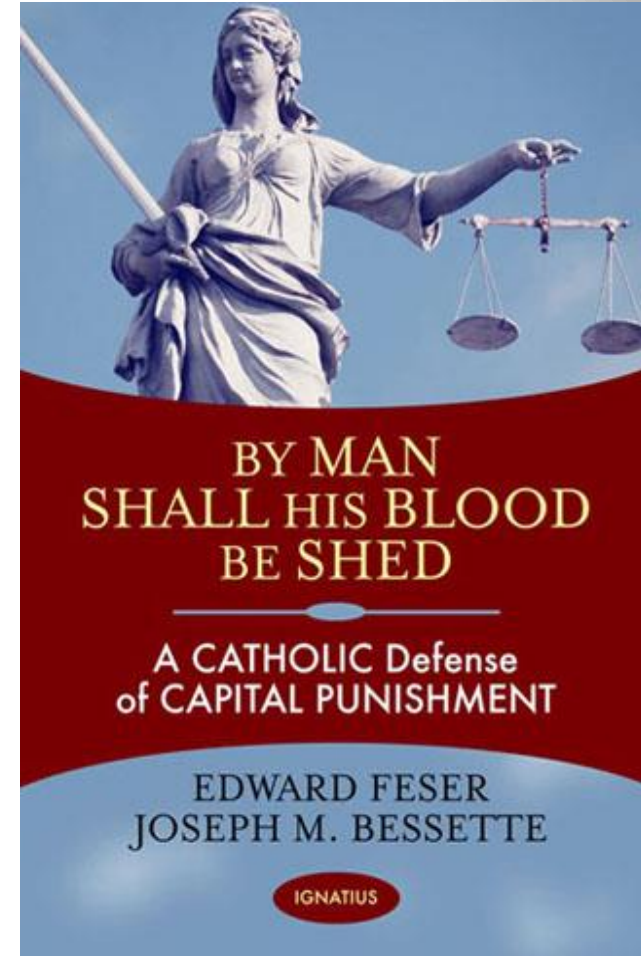
Crucial Importance of Hearing 'the Other Side'

I'll look at the evidence for the teaching, the purposes of punishment, and the typical arguments from opponents.

Lyn will look at infallibility, prudential judgment, intrinsic evil vs moral licitness, true development of doctrine.

(For a fuller presentation on capital punishment, read *By Man Shall His Blood Be Shed* by Feser and Besette.

They provide a methodical analysis of: philosophy; theological tradition; legal and sociological evidence; the USCCB's one-sided presentation of relevant data.)



Crucial Promises Made to the Church

Jesus said He would send His Spirit to guide her to all truth.

Jesus said the gates of hell would not prevail against her.

Jesus said He would be with her till the end of the age.

So Christ, who identified Himself as Truth, gave the fullness of truth to His Church and gave her the authority and responsibility to preserve that truth – the Deposit of Faith – and pass it on.

That fullness of truth can never change because it comes to us from the One who is Truth Himself.



Crucial Understanding of Biblical Interpretation

The Church has always taught that not only can Scripture never teach moral error but also that when the Church Fathers agree on an interpretation of Scripture, no Catholic is at liberty to disagree with that interpretation.

And the Church Fathers – even those who opposed capital punishment in practice – are nevertheless unanimous in stating that the death penalty IS legitimate in principle.

This means no Catholic is free to disagree with this interpretation.



Crucial Fact About the Deposit of Faith

As important as it is to remember that the fullness of truth came from God, who can never lie and never change, it's also important to remember that the divinely-revealed teachings of Christ's Church are cohesive as well as coherent.

Thus the teachings are inter-connected, part of a beautiful unity. This means that if one is pulled out, others will likely fall too.

Something to consider: If we aren't obligated to make retribution to societal justice on earth, perhaps we're not obligated to make retribution to God's justice in purgatory. If there's no crime serious enough to warrant capital punishment, maybe there's no sin serious enough to warrant hell?

(The Pope says there's no hell. This sounds like universalism, the theological error that all will be saved, no matter their deeds.)



Capital Punishment, According to Scripture



In an April, 2001, article, “Catholicism and Capital Punishment,” Avery Cardinal Dulles – who opposed the death penalty in practice – said both Old and New Testaments support it.

“In the Old Testament, the Mosaic Law specifies no less than 36 capital offenses calling for execution...

“The death penalty was considered especially fitting as a punishment for murder since, in His covenant with Noah, God had laid down the principle, ‘Whoever sheds the blood of man, by man shall his blood be shed...’ (Genesis 9:6)

(Sometimes God Himself punished the guilty, including Er, Onan, Korah, Dathan, and Abiram. In other cases, God used agents like Daniel and Mordecai to bring about the just deaths of sinners.)

Capital Punishment, According to Scripture



Dulles said that, in the New Testament, the right to put criminals to death is assumed. Jesus personally refrains from violence but He does not deny that the State has authority to punish.

While debating the Pharisees, Jesus cites with approval, “He who speaks evil of father or mother, let him surely die.” (Matthew 15:4, Mark 7:10, referring to Exodus 21:17)



Cardinal Avery Dulles

Capital Punishment, According to the Magisterium



Dulles said “The Catholic Magisterium does not and never has advocated unqualified abolition of the death penalty. I know of no official statement...that denies the right of the State to execute offenders at least in certain extreme cases.”

Death-penalty opponents might respond by citing statements the USCCB has been issuing on the subject...including their recent endorsement of the CCC change and the Pope’s rationale.

(Since 1974, the USCCB has increasingly tended to condemn capital punishment as intrinsically evil. But the three arguments they cite are, as Feser and Bessette show, indefensible in light of the Church’s consistent teaching and of contemporary studies.)

So remember that statements from national conferences of bishops carry no weight. They’re not authoritative or magisterial.

Capital Punishment, According to Scripture



Scripture, which cannot teach error, has – as Cardinal Dulles said – clearly taught that the death penalty is legitimate.

The Old Testament unambiguously affirms the appropriateness and necessity of the death penalty in many places.

We see it first in the very first book of the Bible, when God, in establishing His covenant with Noah after the Flood, specifically says “Whoever sheds the blood of man, by man shall his blood be shed; *for God made man in his own image.*” (Genesis 9:6)

This passage is particularly significant since God Himself, in commanding the practice of capital punishment, cites the dignity of man, made in His own image, as the very reason for it.

Capital Punishment, According to Scripture



That Law delineates different forms of homicide, stipulating the death penalty for a deliberate attack on an innocent person.

As Deuteronomy 19:11-13 says“...if a man hates his neighbor, and lies in wait for him, and attacks him, and wounds him mortally so that he dies, and the man flees into one of these (refuge) cities, then the elders of his city shall send and fetch him from there, and hand him over to the avenger of blood, so that he may die.”

(The traditional natural law also supports the Church’s teaching. The natural law that says you have a right to X also says you may legitimately be deprived of X if it’s proportionate to your crime.)

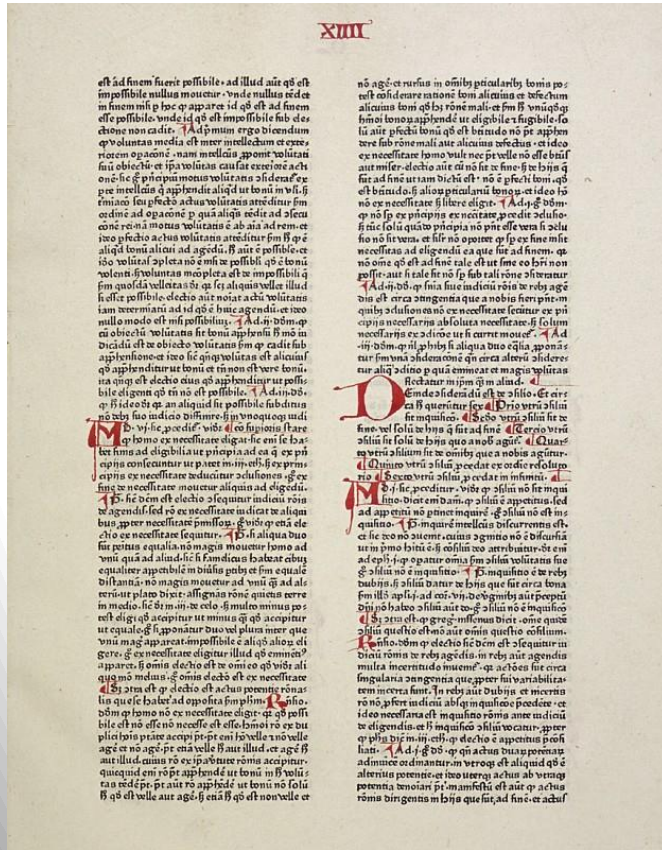
Despite this clear divinely-revealed truth, death penalty opponents often say capital punishment is contrary to the dignity which each human being, even a violent criminal, possesses.

Capital Punishment: An Affront to Human Dignity?



Aquinas, in his *Summa Theologica*, says a man who commits a grievous sin “departs from the order of reason and consequently falls away from the dignity of his manhood.” And “although it be evil in itself to kill a man so long as he preserves his dignity, yet it may be good to kill a man who has sinned, even as it is to kill a beast. For a bad man is worse than a beast and is more harmful.”

Aquinas is not talking about an offender’s loss of his substantive dignity as a human being but rather of his acquired dignity as an innocent citizen who is immune from molestation by the state.



Page from the *Summa*

Capital Punishment: An Affront to Human Dignity?



In other words, ontological dignity derives from human nature and is inherent. But moral dignity is acquired when one conforms his actions with right reason and with divine law. None of us can lose the first. But we can, by horrendous sins, forfeit the second.

All that said, capital punishment actually **AFFIRMS** human dignity.

It affirms the criminal's dignity precisely because, in inflicting a punishment commensurate with his offense, it treats him – not as a dumb animal or a mindless robot – but as a free and rational agent, a human being who is fully responsible for his behavior.

It also affirms the dignity of the victim of the most egregious of all crimes, since nothing less than a penalty of death would reflect the gravity of what was done to him or the inestimable value which society recognizes had belonged to him. (+)

Capital Punishment, According to Scripture

We see the OT affirmation of the death penalty in the incorporation of the *lex talionis* (law of retaliation) into the law of ancient Israel.

Ex 21: 23-25 says God gave this law to Moses on Mt. Sinai, along with the Ten Commandments: “If any harm follows, you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe.”

(This would prevent the family and friends of the victims from escalating hostilities, going far beyond proportionate punishment. In short, it would prevent a ‘cycle of violence.’)

Num 35:33 says “...no expiation can be made for the land, for the blood that is shed in it, except by the blood of him who shed it.”



Capital Punishment, According to Scripture

God works through human beings. Just authority, established by God and understood through Revelation and the Natural Law, responds to wickedness with proportionate punishment...just as parents respond to the bad behavior of children.



We cannot deny the increasing number of high-profile people, in and outside the Church, who are ‘getting away with murder.’

So it’s particularly foolish today to totally dismiss the traditional understanding of just punishment by lawful authorities.

(As private individuals, we may not have the moral right to be instruments of God’s justice. But some of us have an obligation by divine office – parental, ecclesiastical, or civil – to do so.)

Capital Punishment: Violates the Right to Life?



Despite these Scriptural passages and natural-law logic, death-penalty opponents say its use violates the criminal's right to life

They often repeat a catchy bumper-sticker slogan: "Why do we kill people who kill people to show that killing people is wrong?"

That's like asking 'Why do we deprive kidnappers of their freedom to show that depriving people of their freedom is wrong?'

(If the moral difference between the innocent and the guilty is relevant in cases of kidnapping, it's relevant in cases of murder.)

Pope Pius XII elaborates: "Even in the case of the death penalty, the State does not dispose of the individual's right to life. Rather public authority limits itself to depriving the offender of the good of life in expiation for his guilt after he, through his crime, *by a kind of moral suicide, deprived himself of his own right to life.*"

Capital Punishment: Erodes Respect for Human Life?



Opponents of capital punishment may acknowledge that the most despicable of criminals has forfeited his right to life or lost his moral dignity. But they often argue, even so, that permitting capital punishment only perpetuates the “cycle of violence.”

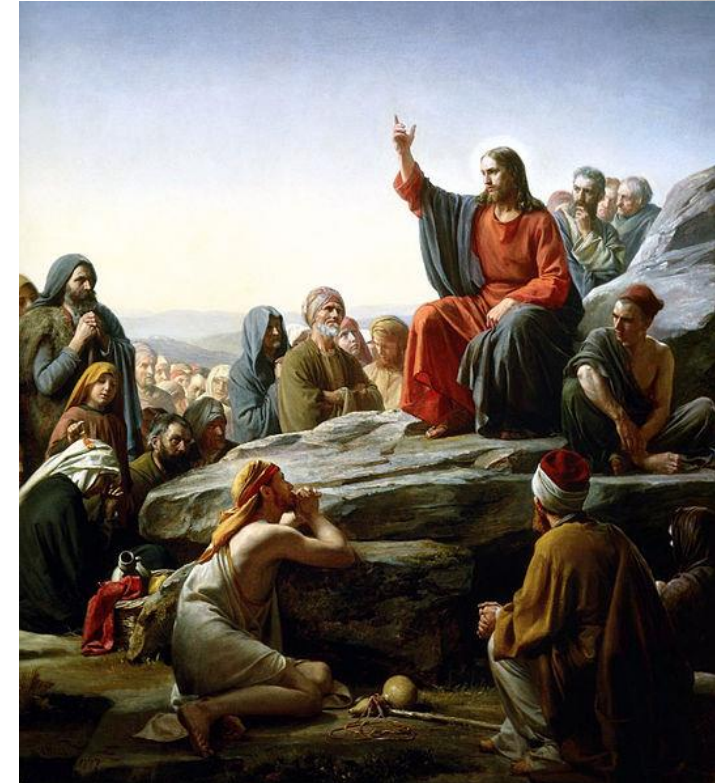
That’s like saying fining thieves perpetuates the ‘cycle of theft.’

Focus on a “cycle of violence” ignores the crucial moral difference between guilty and innocent...and falsely implies that execution by public officials is morally equal to murder by a private person.

Just as imprisoning kidnappers definitely affirms the value of human freedom and fining thieves affirms the value of property rights, so executing murderers affirms the value of human life.

Capital Punishment, According to Scripture

Now let's look at the NT Sermon on the Mount. Concerning Retaliation and Love for Enemies (Mt. 38-48) might suggest Jesus Himself opposes the death penalty. But a careful reading shows the passages aren't teachings against punishment in general, capital punishment in particular. They're admonitions to the victims of violence, who must not *personally* seek redress in kind...they must not retaliate. Nothing in the sermon disputes the right of public authorities to punish crime.



Sermon on the Mount
Carl Bloch



Capital Punishment, According to Scripture

Other New Testament passages not only do not condemn capital punishment but take its legitimacy for granted.

We see it in John 19:11, when Jesus indicates Pilate has authority from God to execute capital criminals. When Pilate asks Him “Do you not know that I have power to release you and power to crucify you,” Jesus replies “You would have no power over me unless it had been given you from above...” (from God)

We see it also in Luke 23:41, when Jesus promised Paradise to the ‘good thief’ who publicly proclaimed that he and his fellow thief were “justly” under a sentence of condemnation and “receiving the due reward of our deeds.” (This is retributive justice.)



Capital Punishment, According to Scripture

We see it in Romans 13:4, when Paul tells us to “be subject” to the governing authority, “God’s servant for your good.” He says “If you do wrong, be afraid, for he does not bear the sword in vain; he is the servant of God to execute his wrath on the wrongdoer.”

(Bearing the sword means holding the authority to inflict the death penalty on anyone convicted of a capital offense.)

NOTE: Opponents of the death penalty sometimes argue that modern western states like our own have such a low regard for human life – as evidenced, they say, by widespread abortion and euthanasia -- that we can’t be trusted with capital punishment.



Capital Punishment, According to Scripture



Yet Paul was writing his letter when the pagan Roman Empire was mercilessly persecuting, torturing, and killing Christians. There was obviously a much lower regard for human life in that time period than in our own. Despite that, Paul still affirmed the legitimacy of the death penalty in the hands of public authorities.

We also see support in Acts 25:11, when Paul tells Caesar’s tribunal “If then I am a wrongdoer and have committed anything for which I deserve to die, I do not seek to escape death...”

(NOTE: Like St. Paul, all of the Fathers of the Church who addressed the death penalty affirmed its moral legitimacy. So too did the Doctors of the Church who commented on it.)

Capital Punishment, According to Doctors, Theologians



In his catechism, St. Peter Canisius quotes passages such as Genesis 9:6 and Psalm 54:24 (55:23), which states “men of blood and treachery shall not live out half their days.”

In his *Theologia Moralis*, St. Alphonsus Liguori upholds the death penalty “if it is necessary for the defense of the republic” or “in order to preserve the order of the law.”

In his *Treatise on Civil Government*, St. Robert Bellarmine says the teaching is proven from Sacred Scripture, the Fathers, and reason. He says “It is lawful for a Christian magistrate to punish with death disturbers of the public peace.”

The most eminent theologians from the Middle Ages to the present agree. These include Blessed John Duns Scotus, Cardinal Cajetan, and the authors of numerous widely-used, ecclesiastically-approved manuals of moral theology in the 19th and 20th centuries.

Capital Punishment, According to the Popes



Until recently, popes rarely addressed capital punishment. Of those who did, NONE condemned it as immoral...and several, by word or deed, affirmed its legitimacy.

In 405, Pope St. Innocent I upheld the authority of Christian civil officials to impose the penalty of death.

In 1210, Pope Innocent III required Waldensian heretics who sought to be reconciled with the Church to make a Profession of Faith which acknowledged the legitimacy of the death penalty.

Pope Innocent said: “Concerning secular power we decree that without mortal sin it is possible to exercise a judgment of blood as long as one proceeds to bring punishment not in hatred but in judgment, not incautiously but advisedly.”

Capital Punishment, According to the Popes



Pope St. Pius V

In 1520, Pope Leo X condemned the idea that heretics could not be executed.

In 1566, Pope St. Pius V issued the Roman Catechism teaching that civil authority is the “legitimate avenger of crime” and that such executions are not in defiance of the Fifth Commandment but rather in obedience to it.

During the 1000 years of the Papal States, the popes authorized perhaps thousands of executions for violent crimes. In the 19th century alone, six popes authorized 500+ (When asked to stay one execution, Blessed Pius IX said “I cannot and do not want to.”)



Capital Punishment, According to the Popes



In 1929, when the Lateran Treaty established Vatican City State, the death penalty was imposed on anyone trying to assassinate the pope. The death penalty remained on the books until 1969.

As Feser says, executions in the papal states were “freighted with spiritual significance.” There was a whole ritual associated with it. A special order of monks ministered to the condemned man and held a cross in front of his face right before execution. A notice in the churches told people to pray for him. And on the day of execution, the pope offered a special prayer on his behalf.

The man was in no way dehumanized. He would pay for his crimes but the Church would do all it could to help save his soul.

This is an ideal harmonization between justice and mercy, two key attributes of our loving God.

Capital Punishment, According to the Popes



In the mid-20th century, Pope Pius XII gave major public addresses defending retributive punishment and the death penalty.

(Referring to Pius XII, *By Man Shall His Blood be Shed* author Edward Feser says no other pope has addressed punishment in general and capital punishment in particular at greater length, in greater detail. He says Pius taught with “real sophistication, real clarity, in a very rigorous philosophical and theological way.”)

In his March 13, 1943 speech, Pope Pius XII said “God...the fountain of justice reserved to himself the right over life and death...Human life is untouchable except for legitimate individual self-defense, a just war carried out with just methods, and the death penalty meted out by public authority for extremely grave and very specific and proven crimes.”

Capital Punishment, According to the Popes

Opponents of the death penalty often argue that St. John Paul changed the teaching on the death penalty in *Evangelium Vitae*, the CCC, etc.

Removing some of JP II's phrases from their context and the larger context of Catholic thinking, these people use them to construct extreme condemnations of the death penalty to which JP II was never committed.

(NOTE: In *Evangelium Vitae*, JP II specified that it was "innocent" life which had an inviolable character.)



Pope St. John Paul II



Capital Punishment, According to the Popes

JPII is not well-served by these people.

After all, he was actually very careful to word his statements in a way fully consistent with his predecessor popes and with Sacred Scripture and Tradition.

After *Evangelium Vitae* appeared, Father Richard John Neuhaus wrote Cardinal Joseph Ratzinger, prefect of the Congregation for the Doctrine of the Faith, seeking clarification on the teaching.

Cardinal Ratzinger explicitly denied that the relevant doctrinal principles were in any way “altered” or “modified.”



Capital Punishment: What We've Covered So Far



Although our limited time prevents me from touching on more of the evidence for the Church's perennial teaching, I've tried to emphasize four key points:

- 1) Civil authorities have the power to apply the death penalty
- 2) Its proper use, in certain circumstances, is morally licit
- 3) This teaching is a divinely-revealed truth of the Church
- 4) It's been affirmed in Scripture, Tradition, and the Magisterium

In other words, the moral licitness of the death penalty is, in principle, an infallible, irreformable teaching of the Church.

Capital Punishment: The Purposes



Non-believers (and many cultural Catholics) don't believe in God, the soul, and original sin. They don't believe in good and evil. And they don't believe in an afterlife, in heaven and hell.

Secularists think this earthly life is all there is. So they doubt the death penalty can bring about any public good. They see it, instead, as absolutely the worst thing that can possibly happen.

They often argue that the only legitimate justification for capital punishment is to prevent violent criminals from killing others.

So if they think this can be accomplished in some other way, the only 'reason' for the death penalty which they accept disappears.

Capital Punishment: The Purposes



Since this is the sole reason Pope Francis cites for his revision of the CCC, it would seem he has adopted the same mindset.

The pope, though lacking social-science expertise, argues as if he knows the situation in every prison in every nation, state, and city.

He says that what the Church once considered moral is no longer so because of a universal change in penal conditions.



Capital Punishment: The Purposes

But even if we limit our focus to just the most sophisticated prison systems, like those in the United States, we really have not yet eliminated dangers posed by violent inmates.

Prison rapes, riots, assaults, and murder remain a serious problem. Some inmates arrange 'hits' on the outside to eliminate enemies or silence those about to give eye-witness testimony.

And of course, if we look at less-advanced, less-prosperous Third World nations, we find prisons in total disrepair, with deplorable conditions, and fairly-regular occurrence of extreme violence.



Capital Punishment: The Purposes



Pope Francis did not attempt to support his position with even one passage from Scripture, Church documents, or the works of the Fathers and Doctors. He *did* pull one quote from the *Summa*. But rather than referring to the articles in which Aquinas admits the legitimacy of the death penalty, he cited one on self-defense.

Here's what Aquinas said on the topic: "Just as a surgeon may amputate an infected limb to prevent infection from spreading through the body and endangering life, so legitimate authority may eliminate...a malefactor, to safeguard the common good."

Saying the common good of society is better than the particular good of one person, he called "pestiferous" men "an impediment to the concord of human society." He therefore concluded that they "must be removed by death from the society of man."

Capital Punishment: The Purposes

Unlike secularists, faithful Catholics know punishment is meant to secure that common good, that “concord of human society.”

Punishment is intended to make retribution for the grave offense, restoring the balance of justice which the sinner upended.

Punishment is meant to protect and affirm the wisdom and majesty of the law which the sinner violated.

Punishment is intended to help the offender ‘get right’ with both His Creator and his neighbor.

Punishment is intended to deter others from ever considering the possibility of committing similar violent crimes.

And as the Catechism’s section on punishment (Paragraph #2266) says, retributive justice is the first of the purposes or ends.



Capital Punishment: The Purposes

Authors Feser and Bessette summarize retributive justice:

- 1) Wrongdoers deserve punishment
 - 2) The graver the wrongdoing, the more severe the punishment
 - 3) Some crimes are so grave nothing but death is proportionate
 - 4) Wrongdoers guilty of such grave crimes deserve death
 - 5) Public authorities have the right to inflict that penalty on them
- (This doesn't mean public authorities must inflict the penalty. The Church actually takes a middle-of-the-road position on this.)

As Patrick Coffin says, society balks at Step One. Many think retributive justice is mean. (One of the first things Pope Francis did was abolish life imprisonment in Vatican City. He now calls for worldwide abolishment, saying it's a "hidden death penalty" that violates the "right to hope.")



Capital Punishment, According to the Popes

Pope Innocent I clearly appears to regard capital punishment as legitimate, in principle, when inflicted for the purpose of securing retributive justice.

Leo X appears to have held that capital punishment can, in principle, be a legitimate means of dealing with heretics...which likely has nothing to do with the physical safety of society.

The *Roman Catechism* (also called *The Catechism of the Council of Trent*) which was issued under Pope Pius V also treats capital punishment as legitimate when done to secure retributive justice.



Capital Punishment: The Purposes

Pope Pius XII gave a very detailed and systematic account of punishment which is grounded in Sacred Scripture and in traditional natural law reasoning.

According to that grounding and that natural law reasoning, the retributive function is fundamental and can neither be discarded in favor of the protective function nor regarded as reflecting only past historical circumstances.



Pope Pius XII



Capital Punishment, According to the Fathers



Even though some of them do commend mercy, the Church Fathers (Athenagoras of Athens, Tertullian, Lactantius, Origen, Cyprian of Carthage, Eusebius, John Chrysostom, Ephraem of Syria, Optatus, and Jerome) all regarded capital punishment as, at least in principle, justifiable as a means of exacting retribution.

Unlike Pope Francis, none of the Fathers appear to refer to self-defense against an aggressor as even one of the purposes of capital punishment, let alone as the overriding purpose.

(Going back to the OT, many of the offenses for which one could be executed under the Mosaic Law – false witness, idolatry, adultery, homosexual acts, bestiality, incest, striking one's parents – don't typically pose a danger to the physical safety of the community.)

Capital Punishment, According to Scripture

I've already referred to a number of Biblical passages which treat capital punishment as legitimate precisely when carried out simply to secure retributive justice. See:

Genesis 9:6

Numbers 35:33

Deuteronomy 19:11-13

Luke 23:41

Acts 25:11

Romans 13

The *lex talionis* of Exodus 21 and Leviticus 24 is also obviously a matter of exacting retribution for its own sake.



Capital Punishment, According to Scripture



In fact, there does not seem to be any scriptural passage that clearly speaks of what is essentially self-defense as even one of the purposes of capital punishment, much less the crucial one.

This is despite the fact that it was presumably more difficult in ancient biblical times to protect society's citizens against violent aggressors without the recourse to execution.

While self-defense was not addressed, deterrence was at least partly in view in some of the Scriptural passages.

Deut 19:20 talks of striking 'fear' in potential offenders. Romans 13 ("if you do wrong, be afraid") is clearly about deterrence.

Capital Punishment: The Purposes



The natural law asserts there is an objective order of justice that must be respected if human beings are to flourish.

Punishment exists for the sake of restoring that natural order of justice, broken by a particular crime. Punishment is thus a moral requirement not merely a utilitarian remedy to protect society.

This is retributive justice. If retribution is to restore the order of justice, the punishment must be proportionate to the offense.

While retribution is the primary criterion in determining if capital punishment is just, we can also evaluate two other purposes: rehabilitation of the offender and deterrence of similar offenses.

In their extremely-thorough study, Feser and Bessette argue that since capital punishment accomplishes all three of these ends, there is no reason to oppose its use in a just society.

Capital Punishment: The Purposes



In “Is the Church Against Both Abortion and the Death Penalty,” Catholic scholar and author Luis Solimero says most objections of principle to the death penalty are due to a poor understanding of justice and of the purposes of punishment.

Modern penal-law theories see punishment only as a means to protect society or correct the malefactor.

They fail to consider the most profound reason for punishment, the need for the guilty one to make retribution for his crime.

It’s not surprising, in light of this, that Solimero says punishment’s final purpose “must be sought on a higher plane.”

Capital Punishment: The Purposes

The expiatory goal is, in fact, especially important because it's almost impossible to understand the concept of divine justice and the dogma of hell without it.

Consider this: the need for protection and the possibility of conversion are nonexistent after death.

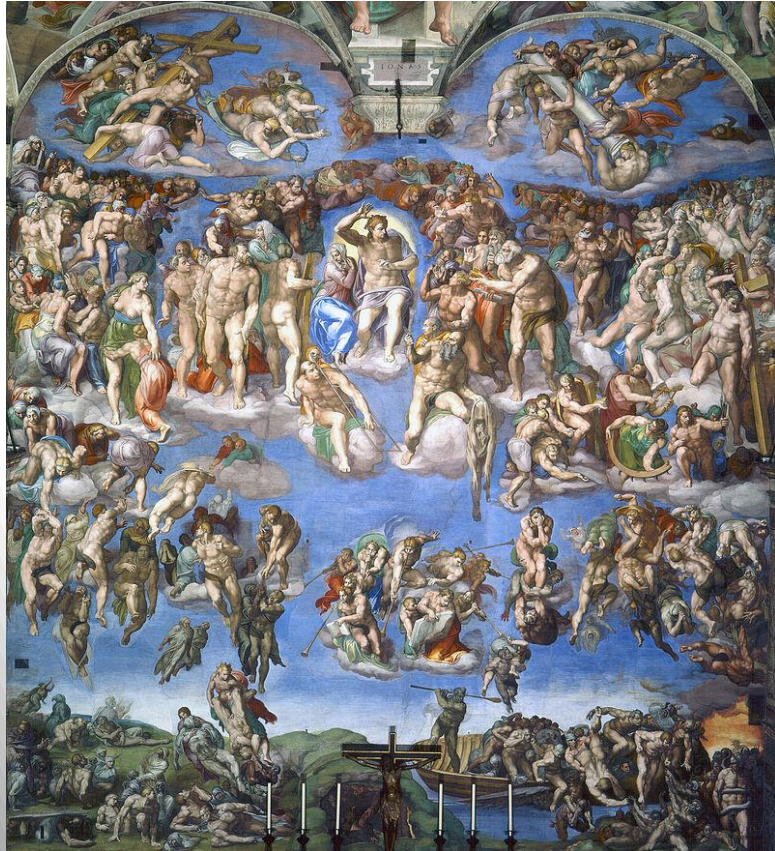
So eternal punishment can be understood only as expiation for evil and the transgressed divine justice.

It is, in other words, the final triumph of good over evil.

(Believing in a just God, we take heart because we know that even when justice is not done in this life, it will be done in the next.)



Capital Punishment: The Purposes



The Last Judgment
Michelangelo

**Pius XII taught this in October, 1952:
“It is the expiatory function which
gives the key to the Last Judgment
of the Creator, Who ‘renders to
everyone according to his works.’
“(Matthew 16:27, Romans 2:6).**

**“Since the Supreme Judge, in His
Last Judgment, applies uniquely the
principle of retribution, it is “of
great importance.”**

Capital Punishment: The Purposes

Father James Schall says “The full understanding of our choices includes seeing their consequences. Our self-initiated actions are not good or bad because of their consequences.

“But what we choose to do impinges on the world. They make, as Msgr. Robert Sokolowski remarked, ‘a crease in being.’

“Once we see this full result of our action...we will understand why we deserve either punishment or reward according to the gravity and nature of the choice we made.”



Capital Punishment: The Purposes



Fr. Schall says “We live in a world transfixed with a type of mercy that seeks to bypass justice. But the one who is treated mercifully, who is forgiven, does not escape the consequences of his disordered act.”

Fr. Schall has really hit the proverbial nail on the head!

While secularists and many Catholics focus solely on mercy, the Church teaches that God is a God of both justice and mercy.

(As Chesterton said, heresy is not the promotion of vice over virtue, but the promotion of one virtue to the exclusion of others.)

Justice is one of the cardinal virtues upon which so many other virtues hinge. It simply means giving to each one his due.

Capital Punishment: Motivated by Vengeance?

Words like vengeance or revenge are actually ambiguous.

Today's capital-punishment abolitionists typically interpret these words as meaning hatred. That, of course, would be a bad thing. But in the Aquinas sense, used by today's supporters of Church teaching, these words mean retributive justice achieved through punishment proportional to the offense. This is a good thing.

When the State inflicts appropriate punishment, it provides a lawful outlet for the public's natural desire to see justice done. (That natural desire for justice was surely placed in each of us by our Creator, who is, as I said, the God of both mercy and justice.)



Capital Punishment: Motivated by Vengeance?

As Louis Pojman writes in *The Death Penalty*, when the State refuses to inflict proportionate punishment, members of the public may take the law into their own hands, resulting in vigilante justice, lynch mobs, and private acts of retribution.



As with the citizenry, the State too must have an outlet by means of which it can kill lawfully, as opposed to arbitrarily or in excess.

To eliminate this outlet will inevitably, given the reality of human life, eliminate not the killing itself but only the lawfulness of it.

Capital Punishment: Applied Unfairly?

Death penalty opponents typically insist the entire death-penalty system is racist, that wealthy frat boys are never put to death.

Feser says statistics don't support this. He and Bessette present empirical data showing that capital punishment in the US involves a filtering process guaranteeing only the very worst of the worst – those committing truly despicable, depraved crimes – are executed.

This is one of the reasons executions in the United States US are so extremely rare.



Edward Feser



Capital Punishment: Applied Unfairly?

Death penalty opponents typically insist the entire death-penalty system operates unfairly, singling out people of color and those from lower economic classes. Opponents say this is a racist phenomenon...that wealthy frat boys are never put to death.

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Capital Punishment: Has No Detering Effect?



In recent years, social scientists have published, in peer-reviewed journals, many quantitative studies showing that the death penalty does deter murder. (Feser and Bessette cite nine leading examples of these studies, published since the year 2000)

There are, of course, social scientists who disagree. (This is probably inevitable when dealing with a controversial issue.)

While this kind of statistical evidence is obviously still debated, we have an enormous amount of informal, commonsense evidence. This derives from the everyday experience of socializing our children and limiting adult behavior...and from “experiments” like increasing the fees for parking violations.

(In general, as reason would suggest, the greater the punishment for a particular action, the fewer the people who will engage in it.)

Capital Punishment: Has No Detering Effect?



There are several clear examples of such anecdotal evidence in the scholarly literature...statements by criminals who refrained from killing victims precisely because they feared the death penalty.

In the US Senate in 1995, Diane Feinstein, who'd served on the CA Parole Board, told of sentencing a woman who'd robbed a store. When she asked why the culprit had an unloaded gun, she said, "So I would not panic, kill somebody, and get the death penalty."

A 2009 *Criminology* article describes the robbery of an elderly woman. One man said "She can identify us, should we kill her?" The other replied "No, we don't want to risk the death penalty."

Capital Punishment: Has No Detering Effect?

Patrick Coffin spoke to someone in law enforcement about cross-border crimes committed from the south.

The law-enforcement official said states without capital punishment actually provide an inducement for criminals to kill eye-witnesses to their crimes or ICE agents trying to stop them.

After all, if the criminal has already committed crimes grave enough to warrant life imprisonment, he has nothing to lose.

On the other hand, if he's committed crimes grave enough to warrant life in prison but he's in a state which has capital punishment on the books, he has an extra incentive *not* to kill.

This simply makes sense, for anyone who thinks about it.



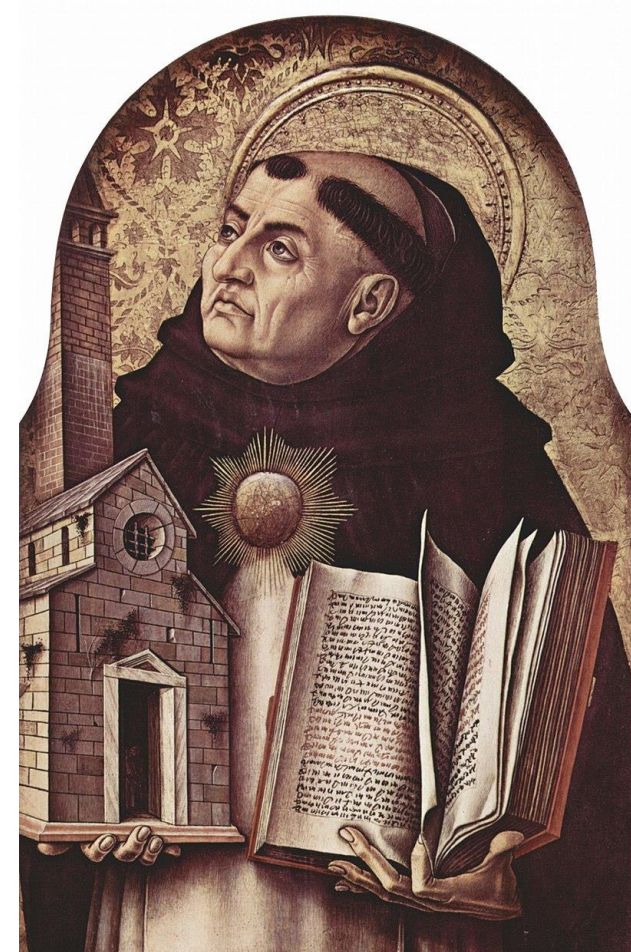
Capital Punishment: Prevents Repentance and Reform?



Aquinas called this objection “frivolous.”

He said criminals “have at the critical point of death the opportunity to be converted...

“And if they are so stubborn that even at the point of death their heart does not draw back from evil, it is possible to make a highly probable judgment that they would never come away from evil to the right use of their powers.”



St. Thomas Aquinas
Carlo Crivelli

Capital Punishment: Prevents Repentance and Reform?



Many who would otherwise ignore the state of their souls turn to God when facing the prospect of death. (A man who would have died in mortal sin if he'd been hit by a truck will die in a state of grace if, after a fatal diagnosis, he asks for the sacraments.)

Samuel Johnson said: "...when a man knows he's going to be hanged in a fortnight, it concentrates his mind wonderfully."

Feser and Bessette did a detailed study of 43 executions in 2012. About 25% seemed to have come to belief, six mentioned getting right with Christ, and three received the sacraments.

This is empirical evidence: the death penalty helps save souls!

Capital Punishment: Prevents Repentance and Reform?

If a potential murderer is deterred by the prospect of capital punishment from committing a horrendous crime in the first place, then we have, essentially, preemptively 'reformed' him.



NOTE: With the time from capital sentence to execution in the US now more than 15 years, murderers have ample opportunity to reform. Even if we could reduce this excessive delay by two-thirds, five years would be enough time for him to come to grips with his evil action and seek reconciliation.

(The willingness to accept a death penalty is a powerful indication of repentance. That Jeffrey Dahmer's repentance was genuine is attested by the fact that he believed he ought to be executed.)

Capital Punishment: Risks Execution of Innocents?



While this risk is a concern, there are problems with the rationale.

First: The possibility obviously doesn't apply when there's no doubt about guilt, as when a murderer against whom there is already a mountain of evidence confesses. (Ex: Jeffrey Dahmer)

Second: The possibility could also be raised against other harsh sentences. (Someone wrongly convicted who spends 30 years in prison can't get back those years.) So if the possibility of error is not a good objection to long imprisonments, neither is the possibility of error a good objection to capital punishment.

Third: The possibility must be weighed against the fact that, if the death penalty has deterrence value (and there's good evidence it does), we risk innocent lives if we *don't* have capital punishment.

Capital Punishment: Risks Execution of Innocents?



The criminal might repent in the remaining time but might not. So if the death penalty is abolished, the good that might be afforded him has to be balanced against the evil others might suffer...

Many criminals are hardened in evildoing by their time in prison with other prisoners. (A hardened criminal might contribute to the hardening of those around him...or even kill one of them.)

If we abolish capital punishment, it will lead to the deaths of others whose murderers might otherwise have been deterred...and some of those victims will lose their *own* chance to repent.

It is too glib to pretend we risk serious harm only if we execute. There are risks to both options.

Capital Punishment: Risks Execution of Innocents?



NOTE: In their extensive research of 1300+ US executions in the past four decades, Feser and Bessette found no compelling evidence that even one innocent person was executed.

It's also important to keep in mind that we tolerate the risk to innocent lives of other practices because of the benefits offered. (We don't ban cars even though many people are killed in traffic accidents. We don't stop vaccinating against dread diseases even though a very few children have deadly allergic reactions.)

In a similar way, we can logically tolerate the exceedingly small risk of executing innocent people because of the larger social good offered by capital punishment.

Capital Punishment: Ignores the Command to Forgive?



If we look at our everyday experiences, we know being forgiven doesn't remove the obligation to make reparation for our wrongdoing. (The teen who bats the baseball through his neighbor's window, the man who says something hurtful to his wife, the woman who goes to confession...each of them must do something to repair the damage, restore the relationship.)

Fr. James Schall puts it very well: "Mercy cannot be seen as a step in mitigating the consequences of evil acts. The one who is shown mercy must restore what he caused to be disordered. This acknowledgement of one's sins is not yet punishment."

"We should 'forgive those who trespass against us.' But if we are the trespassers, we have to restore order to our being.

We do this by acknowledging that we were wrong... We also restore what is due, we accept the punishment our acts deserve."

Capital Punishment: What We Must Understand



When death-penalty opponents insist an offender can never, even in principle, deserve punishment as severe as the death penalty, they essentially say the punishments should not fit the crimes.

This jettisons proportionality, which is also a Scriptural principle. (It goes back to *lex talionis*, the eye-for-an-eye idea.)

If you give up any link between the gravity of the offense and the gravity of the punishment, you're really giving up the whole idea of punishment as a matter of justice.

The result: you end up treating an extremely violent criminal as a patient, not as a moral agent made in God's image and likeness.

This doesn't affirm his dignity; it negates it.

Capital Punishment: What We Must Understand

To pretend a murderer is a therapy case and not a son of God with intellect and will is a position which is incoherent.

It's also inconsistent with the very core of Catholic theology, the fact that sin made us deserving of eternal damnation, which is the ultimate punishment.

Christ died on the Cross because He wants to save us from final punishment.

But if there is, as secularists say, no sin deserving of such punishment – and no hell – what did we need saving from?



The Crucified Christ
Diego Velazquez



Capital Punishment: What We Must Understand

Whatever the pope personally believes about the death penalty – and he, like each of us, is entitled to his prudential judgment – he is still powerless to change the teaching.

That's because he's the inheritor of the Deposit of Faith not the originator.

Dr. Peter Kreeft says the Church is “God’s mailman.” So ‘neither snow nor rain nor gloom of night’ can keep the Church from delivering what God has entrusted to her.

But she is NOT free to open and re-write the ‘divine love-letter’ He has sent.



CAPITAL PUNISHMENT CATECHISM REVISION: Development, Rupture... or TROJAN HORSE?

**“The Catholic Church is the only thing
which saves a man from the degrading
slavery of being a child of his age.”**

G.K. Chesterton

