



Institute for Advanced Physics

The Death of Justice?

by Anthony Rizzi

What has happened to our sense of Justice? Many of us are not *properly* outraged by injustice. Jesus says it this way: “Blessed are those that hunger and thirst for righteousness.” Not us. Indeed, unless it happens to us or someone we know, we can be pretty apathetic about evil being done. This is, ultimately, because we do not know what real evil is. If evil is done to us or those we care about, we sometimes strongly feel the effect of that evil and respond, sometimes with vengeance, which is an *inordinate* outrage, rather than by seeking justice.¹ What’s the difference? Vengeance is about quenching our anger in any way possible, while justice is about reestablishing right order for the *good* of all involved. We don’t *really* know what justice is, because we don’t *really* know what evil is.

Justice has been replaced by “kindness.” And, kindness, in turn, has become letting people be and do what they want. Justice has become toleration. But, this is really a kind of apathy. In a vital sense, hatred is not the opposite of love, apathy is. If I love someone, I must hate the evil that harms him. Apathy about it would be opposed to real love. Indeed, when we do get mad, it is often a kind of apathy in that we do so because somebody is violating someone’s supposed right to do what

they want, independent of whether or not it is good for them.

Again, our apathetic tendencies come back to not understanding evil, in particular human evil. And, this comes back to not understanding physical evil. This is because all our knowledge, including our knowledge of evil, comes through what we know through the senses, and so finally comes back to our understanding of the physical world.²

Thus, to truly answer our title question, we need to first investigate the nature of physical evil. Then, we can address human evil and our inability to properly feel injustice. We will see that the latter arises from our lack of understanding of the principled origins and nature of justice. This, in turn, is evident in the increasing conviction that all men of the past, in particular the Catholic Church, were wrong when they held that the death penalty was a legitimate penalty when carried out by the proper civil authority for first degree murder, i.e. murder with full intent. The death penalty is the central issue around which our discussion of justice will focus.

The moral question, though seldom asked, is, in general: “is it true, right and just?”

¹ This can also occur when evil has not been done to us, but we think it has. As we will discuss, the inability to understand (and, thus, objectively assess) a situation is part of our problem. Because of our misunderstanding, sometimes we feel evil as okay or even good!

² Because of this, to fully understand the arguments made here (and all true arguments) and make their conclusions stable, we need to understand the principles given to us through our senses, the basic principles of physics upon which all of our thinking is based directly or by analogy. For these principles, see *A Kid’s Introduction to Physics (and Beyond)*, Anthony Rizzi (2012). For the full picture of our thinking see *The Science Before Science: A Guide to Thinking in the 21st Century*, Anthony Rizzi (2004).

not “how does it make me feel?” In our particular case of the death penalty, we should thus not ask how it makes me feel or even “is it necessary?”. We should ask: “is the death penalty just?” If it is just, then it is not, in itself, wrong. If the death penalty is not just, then it is wrong.

In a real sense, the death of the right understanding of the death penalty would be the death of justice. The issues of justice come to a point around issues of human life, for someone who radically misunderstands human rights and duties around human life does not sufficiently understand the nature of man to really address other more specific issues of justice.

To address this core issue, the death penalty, we now set out on the above outlined path.

What is Physical Evil?

We see the first meaning of evil when we notice that there are physical substances that lack something proper to themselves. It is most evident in living things. Among them, it is most evident in animals. A dog that is missing an eye, a fish missing a fin, or a frog missing a leg are examples of physical evil. These are privations. A *privation* is something missing from a substance that properly flows from its nature. It is a lack of a certain order that properly belongs to a substance. Notice it is still evil, still a privation, even if neither you nor I nor anybody willed it. This has nothing to do with our will. It is a purely physical privation.

What is non-physical evil?

The first type of non-physical evil, for our subject but not in principled importance, is moral evil. Moral evil, a privation in the will, a disorder in the will, is when someone

deliberately chooses to do an evil. But, notice this presupposes the existence of non-moral evil, privations outside the will, including physical evil. Otherwise, we would be left with a circular statement like this: moral evil is deliberately doing moral evil. To go wrong, the will must be able to introduce a disorder, a privation, outside his will. Moral evil is a man’s deliberate decision to act outside his own nature and the nature of the world in which he acts; it requires natures outside his will. Moral evil starts with his denying something he knows to be true and may then proceed to further action based on that denial. It need not be physical evil, like killing an innocent man. It could be deliberately teaching error or telling a lie.

There are actually two types of non-physical evil, also called spiritual evil. They are:

- 1) *Will evil (moral evil)*, when we deliberately choose evil.
- 2) *Intellectual evil*, i.e., when we have wrong understanding. For example, if we think that $2+2=5$. It does not matter how we arrived at this conclusion, if we think it, we have intellectual error, intellectual evil. There can be many things we think we know that are wrong through no fault of our own.

Intellectual evil is a more primary type of evil. Why so? The very possibility of moral evil presupposes that you know something first. If someone doesn’t know something is wrong then it is not moral evil if he does it. And, he will not feel moral outrage when it is done by others. Furthermore, in doing moral evil, one must deliberately form and accept a lie, an intellectual evil, making the evil appear good.

How do we come to understand moral evil? After knowing the physical world (See A

Kid's Introduction to Physics (and Beyond)), we reflect on that knowing and realize that we are knowers (See *The Science Before Science: A Guide to Thinking in the 21st Century*). We have intellectual and sense knowledge. We see that we can come to general knowledge that puts multiple choices in front of us. Of the options we know, we can choose among them. In this way, we see we have an appetitive power associated with our intellect, the will, which is pulled towards things that can lead us to happiness. We can choose among the goods presented to our understanding. The will is free.³ We can even chose to go against our nature and that of the world around us if we convince ourselves that it is good for us. Hence, we see our capacity for moral evil, i.e. sin.⁴

To understand the nature of what is good for us and justice in particular, we have to understand man's common good which is ultimately God, Truth Himself. But, the order of the universe is a common good; that is, it is a real good which we all share and need. This is especially true of its principal parts, which are the intelligent natures⁵ in it. They are a good

³ In this way, we see that we are *rational animals*. See *The Science Before Science* and Rizzi, Anthony. "What is the Difference Between a Lab and a Border Collie?" *Physics and Culture* (Feb 2018).

⁴ It is a function of our limited nature that we are able to make such an irrational choice against ourselves. Because of our intellectual nature, our final end is Truth. Yet, we can still choose the lie. We can ignore our limited nature. We can try to make ourselves our own end, i.e. try to redefine reality. Note this is radically different from someone who does not know, for example, his own nature in a clear way and acts against it. In that case, we have intellectual error and the person, to the degree his ignorance is not his own fault, is not immoral, is not in moral evil. Note that not being at fault, unfortunately, does not negate negative consequences in thought and action that arise from an error.

⁵ Including the angels, as the angels are just as much a part of nature as men, though we may only know of them by revelation. However, there are strong

higher than our private good, such as having more physical things. Indeed, the common good at any given level is higher than our individual good at that same level or lower (in that, in a sense, the former contains the latter).⁶

The physical universe is that through which we know everything we know; this includes our knowledge of the non-human as well as human substances that constitute it. Even the purely physical natures (including animals) are required for our understanding. In fact, it is inanimate things that we know first, as they are most directly commensurate with our senses. They provide our most generic understanding of the world.

There is no other way to get to our final end except through the physical universe. Thus, it is only to the degree that we properly understand the world around us and make our actions conform to the natures in it that we can grow in truth.

As for the principle parts of the universe, the social aspect of community is *necessary* for each man.

We cannot get to the truth without each other. We cannot even survive, an obvious prerequisite for growing in truth according to our nature, without each other. Even leaving aside the natural need for a father and mother to exist as embryos, we would not survive as babies without external help. We are deeply dependent on the past studies of those that came before us. Imagine trying to figure out long division, let alone calculus, if we did not learn it from others. It would not happen. Even the smartest among us would not be able to

arguments for their existence. (See for example *The Science Before Science* Chapter 8)

⁶ Man's good proceeds through a hierarchy of successively more universal common goods with God at the summit.

advance our knowledge if he did not have the work of the great men that came before him. Newton said “If I have seen further than others it is because I have stood on the shoulders of giants.” Furthermore, people today would not know about these giants unless their work was passed on by someone alive today.

Even leaving aside what we learn from those that came before us, generally, present - day intellectual work could not be done without colleagues that work along side or even with us.⁷

Consider for a moment that you were born, per impossible, without any other people. Your knowledge would not be able to become fully scientific and would be limited to a very general state. Imagine trying to grow in truth as a child, assuming that *only* the basic life sustaining needs are provided, not any social interaction. Without the aid of your parent’s direction and teaching, what would you be able to figure out? You would see things and figure things out, but it would be hit-and-miss. There would be no direction provided on how to allot time, no rewards and punishment associated with spending the proper time and commitment. Your thoughts would have no verbal or written expression to lean on, for you would have no language and little motivation to invent it. You would have to remember everything. If you were an amazing person, you might figure out a rudimentary language, but it would take a lot of your time. It would be extremely hard to remember things, because there would be no pencil and paper, no way to write things down in a lasting way. It would be beyond amazing if you figured out enough to

⁷ Similar points apply to all the prerequisites to that work: food, shelter, clothing, access to books, and other materials. Emotional support and many other things are also needed.

reach the scientific definition of physical thing, i.e. the understanding expressed by the words: “physical things are things that can become something else.” No man is an Island. Man needs other men. It flows from our nature (i.e., because we are rational animals.⁸ We cannot grow in truth without other men.

The Common Good

We are social creatures by nature. Something that happens to one of us affects us all. We are all made for truth. Truth is our common good, the good that we all share. There are levels at which the common good is realized. The highest is Truth Himself.

Charles De Koninck has pointed out that even God Himself must be loved as a *common* good because, even if there were no others, we could never exhaust our understanding of him. So, if we see Him rightly, we see Him as shareable by others, i.e. as at least a *potential* common good, potentially shareable by others.

We are, at a level subordinate to God, made for community, for this part of the created common good. By subordinate, I mean that whatever the good of the community is, it is for the purpose of growing us toward Truth Himself. What is that good? It is the good by which we are enabled to grow in truth.

Each of us is unique, able to fulfill a role in bringing truth to others, revealing God to others. In (and through) our very person, each of us makes certain truths accessible that no one else can. If a particular person were absent, certain things might not happen or they might not happen for a long time. Or, they might not

⁸ See: Rizzi, Anthony. "How a Neglect of Physics Has Turned Christianity into a Myth for Modern Man." *New Oxford Review* two part article (April 2013, May 2013) and *What is the Difference Between a Lab and a Border Collie?* (footnote 3)

happen in a good way that allows the next advance to occur in a felicitous way, which could, in turn, block something else important from happening at all. To quote the movie, *It's a Wonderful Life*: "Each man's life touches so many other lives. When he isn't around he leaves an awful hole..."

Our private good is subordinate to the common good of the community which is, in turn, subordinate to the highest common good which is God.

Note this does not mean what our scientized world⁹ with its rule-based, narrowly utilitarian view of authority would have it mean. It does not mean that personal rights are trumped by enough people voting against the individual. The majority of people deciding (or even *everyone* deciding) to kill an innocent man doesn't make such a killing right.

Tapping healthy past popular culture, it is true what the characters on *The Big Valley* expanding on Henry Thoreau said: "Any man more right than his neighbors constitutes a majority of one already ...and when the rights of the majority take away the rights of the one then the many will themselves suffer."¹⁰ Then, bringing out the importance of the individual

⁹ Recall scientism is the thought characteristic of our modern culture. It arises in any culture whose physics is equation centered (or more broadly centered on a system of somewhat self-referential symbols governed by a logical system of rules oriented towards codifying and/or predicting properties), not centered on those principles that we get directly through the senses (for these principles see *A Kid's Introduction to Physics* and *The Science Before Science*). This replacement physics leads to the conscious or, more often, unconscious belief that one can (or must) start with modern (empiricist) science as the first science, or even the only science, only true form of knowledge.

¹⁰ From the episode "The Odyssey of Jubal Tanner." Henry Thoreau said the exact words up to the word "already" in *On the Duty of Civil Disobedience*.

man to the common good, in *Star Trek III*, Captain Kirk says to Mr. Spock, after Spock wonders why he and his friends risked their lives and careers for him: "The needs of the one outweigh the needs of the many." (This is in response to Spock, who, in the movie before, said when he was in the process of giving his own life¹¹ for his friends and colleagues, "the needs of the many, outweigh the needs of the one.") We need each other. Again, each one of us has an irreplaceable place.

Still, what does it mean for us to put the created common good, which is the order of the universe, above our individual good? It means that in order for our individual good to have any meaning, that is to actually be really good for us as men, it must align, for example, with the good of the community which, in turn, is ordered toward truth, ultimately Truth Himself. The community consists of individual men. It is for each man's good but for his *common good*, truth. Without the common good that is the community, we cannot truly be what we are meant to be; we cannot grow in truth.

Putting the private good of the individual ahead of the common good would, thus, destroy the very orientation and thus core nature of the private good.

The scientized view inculcated by our equational physics treats individuals as members of a collective, having no importance in themselves, being valued only insofar as they are part of the socio-cultural machine. A common reaction against the scientized view ends, ironically, by reinforcing it. The reactionary view tries to recapture the importance of the individual by taking man's

¹¹ Spoiler: Spock, in the show, later comes back to life after dying.

private good as his highest good, which then results in taking man as his own end. De Koninck says “On this view, the subordination of the private good to the common good would mean subordination of the most perfect good of the person to an alien good; the whole and the part would be strangers one to the other; the whole of the part would not be “its whole.” This error disparages the person in his most fundamental capacity, that of participating in a good greater than the singular good; it denies the most splendid perfection of the universe; that which God Himself principally wills and in which a person can find his greatest created good. This error rejects the created common good not because it is only created, but because it is common.”^{12, 13} So, we see that, unlike the scientized view, not only is the private good subordinate to the common good, the private good and the common good do not even compete; instead, the common good, for example the community, is a higher good of the individual.

In most cases this is obvious. For instance, if I contribute money to the building of churches and libraries, my private goods have a deeper meaning than they could have without them. However, other cases are less obvious.

To see this, take a concrete simple example. Consider a man who owns land and does not want to sell. The city finds that his house is on a rich deposit of selenium that is needed for making semiconductors. There is no other place in the world that has a deposit that has sufficient purity for use in a certain device needed for communications that are critical to the country. Furthermore, all the other deposits put together are not sufficient to meet the predicted need. Should the man be forced to sell his house? Yes, his good will eventually depend on this communications system.¹⁴ What if he is 100 years old? Probably it’s best then to wait till he dies. Suppose he is 80 years old, and might not die for 20 years? He might benefit from the communications system if he lives that long, but not necessarily in an important way, because of his age.¹⁵ The answer is again, yes, because his good is also in helping others and this is the profound answer. Why? He, through his land, has contributed to the increase in cumulative knowledge of the human race that results from the new communication system.¹⁶ Simply doing the right thing does him good; it aligns him with what will be ultimately best for himself. The right thing properly orders him with his common good of his life among men; in doing this he makes a personal sacrifice that helps him see more fully his integral place in the community. This is analogous to the baseball

¹² Charles De Koninck, “The Primacy of the Common Good against the Personalists,” *The Writings of Charles De Koninck, Vol. II*. Ralph McInerney editor (Indiana: University of Notre Dame Press, 2009), 86

¹³ If, per impossible, all intelligent agents in the universe all went permanently bad, this would only mean that part of the common good would not be there, i.e., would not exist, and thus would not be a good. Indeed, it would be an evil, and we would be obliged, as long as it remained that way to stand against it. More specifically, if everyone in a particular place turned against the good, we are not obliged to follow but to stand alone against the evil.

¹⁴ To be just, the community must reimburse him at a fair price and give him ample ability to continue his life relatively uninterruptedly. This includes providing whatever monies and goods are necessary for this.

¹⁵ Even if the communication system doesn’t help him directly, by helping the larger community it helps things that do help him, for example the hospital system that facilitates his health and thus may, but not necessarily, end up helping him in an important way.

¹⁶ This is most immediately evident to him in the effect it will have on his family and friends.

player who makes a sacrifice hit to get his teammate home and win the game. Now, the full good of his act of offering his land will come back directly to him in heaven¹⁷ in the resulting increase in the sum total of man's natural knowledge. That is, the men in heaven will have greater natural knowledge because of his act.¹⁸ In addition, the man will also benefit from the increased order in the relations among men.¹⁹

Now, finally what does all this have to do with justice?

Justice

Justice is one of the four cardinal (moral) virtues. It is the virtue that habituates the proper ordering of a man's will with respect to his fellow man. Justice means giving everyone his due. It is the cardinal virtue that deals (in its first sense)²⁰ with the relation between men.

From the primacy (at its proper level) of the common good of the community we see the need to develop our understanding of justice, what is due our fellowman. Each man is entitled to certain things. He must have his own property to grow in truth. It would be unjust to take a man's property without just reason and without just compensation. If I borrow a cup of

sugar, I should give a cup back. There should be direct proportion in justice between men.²¹ What happens if justice is violated? What should the community do about a man who, for example, steals from his fellowman? He should be forced to return the things he stole, but it goes beyond that. Intentional stealing involves a violation of the common good, breaking the proper order of the community, and so, something must be done to put that order back in place.

Where is the order broken? First, in the disorder that resulted in the life of the victim. The victim had to go without the property that was taken from him and endure the emotional and physical wear and tear of the violation. Second, the largest disorder is introduced in the life of the man who did the action. The perpetrator perverted the proper order of his nature by deliberately employing his emotional, physical, and intellectual energy to carry the theft to completion. Most importantly the disorder is in his will, for it is the direct willing that made the disordered acts his own. He has violated his own nature (and in so doing acted against God); so, for his own good, this disorder needs to be addressed. The deliberate act of the will creates the seeds of a habit that will grow unless contradicted. The man is at war with his own good, which is, here, the common good of the community. Again, this needs to be addressed for his own good. To not address it, or ignore it, is to ignore the humanity of the man and, thus, his intrinsic value as a man. He deserves and needs a punishment that serves the purpose of reformation at this deepest level. Of course, to be properly reformatory and

¹⁷ The existence of heaven and hell requires proof of the immortality of human soul (see *The Science Before Science*) and certain deep level understanding of justice which we do not discuss here.

¹⁸ The resulting increased glory that arises because of the increase in the perpetrator's receptivity to grace is also a benefit to the perpetrator. He will be able to receive more of the truth and resulting joy because of his greater alignment with and receptivity to the proper order of reality.

¹⁹ Strengthened and increased order in relationships among men increases the being, the reality of the whole of which each man is a part.

²⁰ It can also be said analogically to deal with the proper order of the will with respect to one's own activities, that is one's own thinking and emotions.

²¹ There should be direct proportion in justice between men but proportioned according to need and role in justice between the community and the individual. The latter point does not imply socialism, which arises from a scientized view of human nature.

just, the penalty needs to be proportional to the crime.

This penalty also redounds to the common good. That is, only in addressing this core source of the disorder can the others that flow from it be properly addressed. Only in this way can the order of the community be defended. But, notice, the order could not have been reestablished if it first weren't good and proper for the perpetrator himself.

Now, the generic prerequisite for growth in truth (by ordinary means) is that one's life must be respected. We do have the right to "life, liberty and the pursuit of happiness", life being the first right for this reason. If the community does not respect this, all other respects given by it are futile. For this reason, intentionally killing an innocent man is a great crime. What should be the penalty?

Justice, The Common Good and The Death Penalty

A first degree murderer, one who intentionally kills an innocent man, damages the community in a profound way. He performs a lived demonstration in the heart of his being (because it is something he wills, which is part of the core of who he is) that his own nature is not respectable, not valuable. How so? He and the man he killed share the same nature. He has, in principle, by killing the *innocent* man, passed judgment on the value of such a nature in itself. And, that judgment is that its value is so low that it can be destroyed at will; it proclaims that one might get rid of a man the way he would a plant or animal pest, or perhaps even an inconvenient inanimate object.

This act thus does deep damage to the killer's proper understanding of his own nature

and to all his habits (all the cardinal virtues (justice, courage, temperance, and prudence) are deeply distorted). Due to the profound impact on his internal senses,²² his emotional makeup is profoundly shifted. In short, his own soul, his own being is deeply damaged. In a way, more damaged than the man he kills. Plato in giving the words of Socrates²³ says that *it is better to suffer evil than do it and that because of that the latter is to be more pitied*. Furthermore, he kills an irreplaceable part of the life of the community which is part of his own life. The killer is in dire need of help. A just penalty, done out of love, not vengeance, is the remediation. If he understands the evil he has done, he will be realizing his need, and expecting the just penalty.

The community itself has a duty to rectify the damage at the source. First, the damage must be rectified for the good of the murderer himself. They say that if a bear kills, he must be killed because he will kill again. An analogous thing is true of the heart of man. If he is to retrain himself he must attack the seismic damage that has been done to his habits of will and appetites. The first step in this is to recognize that his action deserves death. Why so? He has robbed the common good of his own core life and his victim's life. Damage has been done to the community: the loss of two people - the murderer and the victim. The victim's physical life has been lost and the core life of the murderer has been lost through his willful attack against his nature. What penalty is proportional to the damage of killing an innocent person? What level of penalty can break through the hardened will, emotional, and intellectual energy arising from such a

²² See *The Science Before Science* and *What is the Difference Between a Lab and a Border Collie?*

²³ Plato, Gorgias 469a-479e.

horrendous evil? Life in prison happens one moment at a time and so does not have the immediacy necessary to break the grip of such a deeply evil act. It is not proportional to the eradication of an innocent man from the life of the community. Because murder is the most complete physical assault on human nature that can be done, anything less than the physical death of the perpetrator is infinitely disproportional to it.

Is this repaying evil with evil? No, it is directing the damage to where it belongs, to the man responsible for it. It is letting that damage serve to teach the man the truth that he has tried to purge from his nature. By “teach,” I mean that, if it is accepted by the man, it serves to truly repair that damage.²⁴ It does so by bringing the nature and consequences of the killing of an innocent man that he carried out and experienced as external to himself (as if this innocent man was irrelevant to himself) to the heart of his own being, where it belongs. It makes fully, including experientially, present to him the reality of his killing of a man who is part of his own common good, in that way part of himself.

Furthermore, the imminent threat of certain death brings the reality of the evil he has done to his consciousness in a stark way. This can bring him to repent and begin the process of interior reparation, which may never happen without the clarity brought by the just sentence.²⁵

²⁴ It does so in a way proper to the way man learns, not just mentally but also in his will and internal senses. See Rizzi, Anthony. “How to Learn in Four Steps.” *Physics and Culture* (April 2014)

²⁵ As an example consider the following. The movie “Dead Man Walking” argues against the death penalty and is based on a true story written up in a book by the same name. Though the movie and author are trying to argue against the death penalty,

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Thus, to be of full value to the perpetrator (in addition to being necessary to justice itself), the judgment has to be done in a fair, objective process that makes it evident to everyone, especially the perpetrator himself, that he is guilty.²⁶ Then, the sentence needs to be passed and executed in an objective manner without vengeance, but hope and prayer of reform for the person. This puts clearly in front of the murderer the full depth of the evil that he has done, not the emotion of the moment. In this way, he can more easily see that he is “paying” for what he did and can reap the benefit of the truth that it brings. It brings the opportunity to clearly face, admit, and repent of what he did, so that he can be put right in his will and begin to repair his other habits. If the soul were, per impossible, not immortal²⁷, it would still be true to say that if he makes use of this chance, he dies in the dignity of truth. Again, this is *impossible* because the nature of the intellect that makes all this argument work reveals the immaterial nature of the core of human nature.

In fact, this process begins the process of purging the perpetrator of error, a process that is necessary for what God has prepared for him after death. In killing the innocent man, the perpetrator usurped the role of God in deciding when a man should leave his “earthly” life. In accepting the just penalty, he has realigned himself with the order of nature and nature’s God. And, this means the order in the relations among men in heaven will be more profound

the historical events portrayed in the movie reveal that only at the point of execution does he finally admit his guilt and repent.

²⁶ Of course, all of our reasoning hinges on the supposition that the guilty man is convicted, not an innocent man!

²⁷ That it is shown in *The Science Before Science*.

and thus convey more of the truth that reflects Truth Himself.

Again, his willful attack against his nature, which, because it is shared by all men, is an attack on the whole community. Thus, the community has a right and, indeed, a duty to act, as they are the ones damaged, and the murderer deserves death. The community, then, has the right to execute him to reestablish justice.

Does the community have to put him to death? A better first question is what does the community have to do? First, it cannot do nothing.

If it does nothing, the community effectively says that it does not care about the victim's life and the damage done to itself, especially as seen in the lives of the victim's family, friends, and colleagues. It means that the body of men does not care about its own health. It is a statement of despair. It is a profoundly anti-life statement. In this way, abortion and the death penalty are complementary issues. Abortion should not be legal for it kills an innocent man. If we care about our fellowman, we oppose it. This follows because of the nature of the one who is killed. Again, in the case of murder generally, the person who does the killing deserves death because of the nature of one who is killed. A man who steals deserves a punishment proportioned to the crime of stealing and how much he stole. To deny this is to deny the reality of the privation caused to those from whom he stole (and the resulting privation caused to the community). It is to introduce a lie into the common good of society, which is a higher good than his private good.²⁸ And, as

already argued, to be proportioned to the crime of killing an innocent man, the least that can be said is that the guilty himself *deserves* death.

Second, a sparse response is not an option. Consider what happens if the community does not proportionally care about evil done in the world. Not only is human life cheapened, threatening the physical lives of people, but the content of the life of the people that are alive is deeply degraded. People cower in fear; they fear to think or act outside of the control of the evil that goes substantially unchecked. The very nature of man's goal is corrupted; the community becomes focused on a lie instead of on the truth.

Think of an old west town, such as seen in old westerns. Consider a town in which the ladies have decided that if the people are simply very nice to the wrong-doers, they will be nice back. Suppose, per the western, that they have kowtowed the men into not resisting, in any effective way, the wrong-doers' actions. Quickly the town becomes a place in which decent people don't want to live and those that stay compromise with the most offensive type of behavior, including maiming, torturing or even killing people, even children, for fun. This is an extreme case, but such extreme cases only make more evident the principle that is equally valid for less extreme cases. The principle is that justice is necessary for proper community life. Any compromise with injustice creates, according to the degree and nature of the injustice that is tolerated, an environment that promotes evil and its attending lies.

Let's summarize. To deny justice is to deny the core dignity of man. It is an affront to man and, through that, to God. The book of

²⁸ The common good that is the community is subordinate to the larger common good, i.e., to its www.iapweb.org

place in the rest of the created common good (the rest of the world) and the separated common good, God.

Genesis verse 9:6 says “Whosoever shall shed man's blood, his blood shall be shed: for man was made to the image of God.”²⁹ Justice is to give each man his due. If a man damages the community, he is responsible for repairing it, and must himself be punished to repair the damage that has been done to the community. The killer owes reparation to himself and the community. Furthermore, the community would not have the right to execute him if he did not deserve death. What we do to a man has to *actually be* good for him. And, this individual good is also good for the community and, thus also his good insofar as the community is his higher good. So, for example, to kill someone only because he might kill would be to treat man like one would a mere animal or even a machine. If he did not deserve death as a result of his murderous act, the community would not have the right to kill him solely because it has no way of containing him. Indeed, we could not even contain him, limit his freedom, if we did not acknowledge he deserves that penalty. He must deserve the penalty you give him. To act independent of the nature of man is to act as if man's nature is defined externally by the state.³⁰

²⁹ Douay-Rheims 1899 American Edition

³⁰ Important Church authorities have implied that containment of prisoners was somehow less possible in the past (though, in fact, it is common knowledge that functioning prisons were common) and that this justified their use of the death penalty then. In particular, the statement of the Catechism of the Catholic Church implies this when it says: “Today, in fact, as a consequence of the possibilities which the state has for effectively preventing crime, by rendering one who has committed an offense incapable of doing harm - without definitely taking away from him the possibility of redeeming himself - the cases in which the execution of the offender is an absolute necessity are very rare, if not practically nonexistent.” Note, this statement is somewhat ambiguous along a different direction. It implies that the death penalty is not an “absolute necessity.” If

Now, back to our question, what does the community have to do?

We have seen that the community cannot do nothing or be sparsely responsive. What must it do? It must do justice. It must act against the evil done. The proportional penalty must be meted out. The death penalty is the proportional response. However, since the murder is a violation against the common good, i.e. the community, the possibility appears that the community can choose to take the penalty on itself.³¹ This still acknowledges and addresses the gravity of the crime and the need for justice. Injustice is itself evil and breeds injustice. However, can any rightful community response be proportional to the action and how can this affect the state of the murderer? To the first, it appears the answer is no. Outside of the death penalty, only a response from God Himself, the sustainer and author of nature, could do this. Christian cultures through the redemption offered by Christ have such a remedy under certain conditions. In the redemption, Christ has already “set to work” fixing the damage done by purposeful evil. We

this means that justice does not demand the death of the individual because the death of Christ may be applied in some cases with some stringent conditions (as mentioned later), that part of the statement does not yet deny the proper meaning of justice. By contrast, the statement soon to be inserted into the Catechism goes so far as to conclude that it would be intrinsically wrong for the state to use the death penalty, and thus destroys the proper understanding of justice. It would say: “the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person.” As opposed to these wrong statements, justice is giving each man his due, not looking to see how we can make sure men do what we like by external means.

³¹ This is especially true of majority Christian communities that have the understanding that one can share in the work of reestablishing justice with God by joining their sufferings with the sufferings of Christ (note that all evil actions are ultimately offenses against God).

can access it by taking upon ourselves the injustices that properly belong to ourselves and others and joining them with his activity. The death of Christ, being the death of the God-man, was the way this murderer and all other human moral evils can be set right. Notice that at the heart of the logic of the redemption is the death penalty, i.e. true justice, which is the need to set right disordered nature.³² A boy breaking a window is not set right by nice words, but by going out of one's way to correct the boy's behavior by having him redress the damage done to the community and himself. To think otherwise is to live an unreal life.

Along with this special intervention of God, how does this play out for the community and in the state of the soul of the perpetrator? What of the evil that must be purged? A penalty still must apply in any case. The penalty should be life in prison; this is the closest proportionality to the evil he has done that can be rightly given, short of the death penalty.³³

But there are two cases: those that truly repent immediately and those that do not.

For those that do (assuming you can really verify this is the case), his awareness of the evil he has done coupled with a heavy participation in his own penalty, can, if he allows it to do so, affect a real change in the deep evil planted in the core of his being. The community must go out of its way to do what it can to ensure this happens. This is part of how the community transfers the penalty to itself. It also means even more outreach (for it should happen in any case) to the victim's family and

friends. The transfer also means that significant numbers of the community bring out the things that the victim would have contributed, try to ameliorate what was lost and magnify the good that he had started to do. It means heightened worry at the individual and community level (including investing money and resources) about protecting innocent victims and punishing their violators. It means much more that has to be fleshed out by the communities, probably at the county level, that chose not to impose the death penalty. The perpetrator should pray for the grace to change and to be given the exterior and interior penance necessary to secure his interior reform.

For those that do not repent immediately, the community has even more work to do. It must do what it can to challenge deeply the perpetrators attitude, especially by bringing to bear the evidence of his evil on his consciousness. The community must take the actions mentioned in the first case in a much larger way, depending on the depth of the obstinacy of the perpetrator.

Justice is essentially important to our lives. To not carry it out is to ourselves participate in evil. To deny the state's right to the use the death penalty is to deny justice. It is to participate in evil and to perpetrate a lie about human nature and its value that transcends that of any mere physical thing. The murderer deserves death, and the community has suffered the damage of his action, so it has the right and duty to respond proportionally; this is why court cases read, for example: "People of the State of California against John Doe" and not the victim against the accused or even the family against the accused. It is the community against the accused.

As we have seen, this does not mean the community must apply the death penalty if

³² See also: Rizzi, Anthony, *How A Neglect of Physics has turned Christianity into a Myth for Modern Man, Part II*, New Oxford Review May 2013, see pg 25.

³³ Again, the reparative action of Christ through the community, and in the murderer himself, is necessary to compensate for the huge lack of proportionality.

it properly accesses Christian teachings, but it does mean that justice needs to be served. It may be that the death penalty is needed. It may be that it is only needed for serial killers. It may be that the system is not fair or accurate enough, so that one can only be sure in the case of serial killers (where there is much more evidence). In any case, evil needs to be *proportionally* confronted for good to reign. It has been famously said that: "The only thing necessary for the triumph of evil is for good men to do nothing." It is more accurate to add that: "evil will also triumph if men cease to recognize the need for, and goodness of, justice."

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For a man's act is made good through attaining the rule of reason, which is the rule whereby human acts are regulated. Hence, since justice regulates human operations, it is evident that it renders man's operations good, and, as Tully declares (De Officiis i, 7), good men are so called chiefly from their justice, wherefore, as he says again (De Officiis i, 7) "the luster of virtue appears above all in justice."

St. Thomas Aquinas

(Summa Theologiae, II-II,Q58,A3)