

SEPTEMBER 9, 2018

CAPITAL PUNISHMENT AND THE DEVELOPMENT OF CATHOLIC DOCTRINE

The original (1992) wording of #2266 in the *Catechism of the Catholic Church* includes the sentence: *For this reason the traditional teaching of the Church has acknowledged as well-founded the right and duty of legitimate authority to punish malefactors by means of penalties commensurate with the gravity of the crime, not excluding, in cases of extreme gravity, the death penalty.* It goes on, then, in #2267 to encourage public authority to not use capital punishment, if other means are sufficient, using the exact same wording as is in quotes in the 1997 revision below.

In light of Pope John Paul's encyclical *Evangelium Vitae*, #2266 was shortened and the issue of capital punishment was talked about only in #2267: *The traditional teaching of the Church does not exclude, presupposing full ascertainment of the identity and responsibility of the offender, recourse to the death penalty, when this is the only practicable way to defend the lives of human beings effectively against the aggressor.*

"If instead, bloodless means are sufficient to defend against the aggressor and to protect the safety of persons, public authority should limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person."

Today, in fact, given the means at the State's disposal to effectively repress crime by rendering inoffensive the one who has committed it, without depriving him definitively of the possibility of redeeming himself, cases of absolute necessity for suppression of the offender 'today ... are very rare, if not practically non-existent.' [John Paul II, *Evangelium vitae* 56.]

The most recent 2018 revision to #2267 now reads: *Recourse to the death penalty on the part of legitimate authority, following a fair trial, was long considered an appropriate response to the gravity of certain crimes and an acceptable, albeit extreme, means of safeguarding the common good.*

Today, however, there is an increasing awareness that the dignity of the person is not lost even after the commission of very serious crimes. In addition, a new understanding has emerged of the significance of penal sanctions imposed by the state. Lastly, more effective systems of detention have been developed, which ensure the due protection of citizens but, at the same time, do not definitively deprive the guilty of the possibility of redemption.

Consequently, the Church teaches, in the light of the Gospel, that "the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person" [Address of Pope Francis, October 13, 2017], and she works with determination for its abolition worldwide.

The current wording, approved by Pope Francis on August 2, 2018, reflects a significant development in Catholic teaching on the morality of capital punishment. How can something admissible become "inadmissible"? Does that mean I have to personally accept that teaching in order to be a "good Catholic"? I would like to explore these questions a bit more in depth over the next few weeks, as space permits.

SEPTEMBER 16, 2018

***CAPITAL PUNISHMENT AND THE DEVELOPMENT OF CATHOLIC TEACHING**

Last week I compared the wording about capital punishment in the *Catechism of the Catholic Church* as it first appeared in 1992, then with the revisions made by John Paul II, and now the current wording approved by Pope Francis: (#2267) *Recourse to the death penalty on the part of legitimate authority, following a fair trial, was long considered an appropriate response to the gravity of certain crimes and an*

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Notice the very careful wording of that last paragraph. The death penalty has become “inadmissible” “in light of the Gospel.” Why is it so in light of the Gospel? Because it violates the core principle of the dignity of the human person. Jesus’ proclamation of the reign of God is intimately linked to the defense of the dignity of every human life. The clearest exposition of tying this fundamental moral principle of human dignity to the core message of the Gospel is Pope John Paul II’s encyclical *Evangelium Vitae* (The Gospel of Life, 1995). It is well worth reading and is easily available online. Reminding us that it is “in light of the Gospel” that we have come to this conclusion does two things. First, it challenges every Christian to ask themselves whether they have embraced the Gospel in all its dimensions or only in those that suit our outlook on life. This is a challenging statement. Yet, who fundamentally created it? Jesus. Who went beyond the principle of “eye for eye” and made the Christian gospel about not doing violence, even to those who are our enemy? Jesus. Now, we have to interpret those passages carefully, but it is much more of a stretch to justify violence, including state-sanctioned killing, given those teachings of Jesus, than it is to suggest that such killing is compatible with the Gospel.

Secondly, because it is “in light of the Gospel” it means that we need to work to change minds and hearts. We come to this conclusion not just through logical, rational, philosophical means, but through our identity with the Gospel of Jesus. We need to search for rational arguments that can persuade people to see the deeper truth of not using capital punishment, but we also understand that many will have a different point of view. But for Catholic Christians, specifically, it is no longer simply a “make your own choice” issue.

Pope Francis adopts a very Thomistic approach on this issue (using the philosophical principles highlighted by St. Thomas Aquinas), by taking larger principles of natural law (the dignity of every person; the right of the state to protect the life and welfare of its citizens, the duty of the state to provide justice, and so on) and applying these to a concrete situation. Thomas makes it very clear that it is very difficult to make blanket absolute judgments about all times, places, and circumstances on complex moral issues. That is why the Pope’s use of “inadmissible” is precisely the perfect word for what he is calling the Church to embrace. In effect, he is saying that the use of capital punishment by the state might have had a place in other times and circumstances. Though elsewhere, not in the Catechism, Pope Francis reminds us that it was often tragically used without proper cause by states, including even the Papal States at one time. But even if it were once acceptable, given three developments that are now current and will be in the foreseeable future, recourse to capital punishment is to be condemned, and the Christian Church is to work tirelessly to help states embrace other options.

One thing that has changed is our embrace of the inviolability of human dignity. It is never lost. It is intrinsic to every human person. And even heinous crimes do not make a person lose that dignity. Secondly, we now better recognize that sanctions by the state are not necessarily justly applied. In particular, the ultimate penalty of death has been shown to be applied in a very discriminatory, non-even way. Thirdly, we do have the material means available to incarcerate people in humane ways, even for life, and so do not need to resort to the death penalty in order to protect citizens.

Allowing a person who has committed heinous crimes to live keeps the state from becoming complicit in killing someone who does not have to be killed. Moreover, though it might not happen, it allows for the possibility of a person coming to a conversion of life and to seek redemption for and to actively do reparation for those crimes.

But what if I cannot accept this teaching? Am I a bad Catholic? Is it optional teaching? More next time.

SEPTEMBER 23, 2016

***CAPITAL PUNISHMENT AND THE DEVELOPMENT OF CATHOLIC TEACHING**

Last week I examined why Pope Francis has taken the developments in Catholic teaching and formalized the Church's teaching that the use of capital punishment is no longer admissible. But what if I cannot accept this teaching? Am I a bad Catholic? Is it optional teaching? I have been reading a number of theologically conservative sources which have done everything they can to argue that the Pope does not have the authority to change Church teaching on this issue. In effect they argue that, because the Church at the highest level supported state-approved penalties of death for so many centuries, it cannot now change that teaching. These are not theologically persuasive arguments. If one wanted to offer a theological argument, one way would be to take the same Thomistic principles that the pope uses and conclude for the just use of the death penalty. In other words, revisit the three areas that the Pope says has led to the change. That would mean arguing that someone loses their claim to human dignity when they commit certain crimes (very difficult; if it is not inviolable, who decides the dividing line?). Even if that theological argument were surmountable, it would then mean showing that the state can be trusted to administer the death penalty in a just and equitable manner and the threat of that penalty acts as a true deterrent. However, in countries that still carry out the death penalty, including the United States, that is contradicted by the actual facts. And then, even further, it would have to be shown that there are no other means to separate such criminals from society (again, a difficult argument). Another way to argue theologically for the use of capital punishment is to show how it is necessary, in certain circumstances, in order for the gospel to be lived in this world. Again, not an easy task, in my opinion.

So, in the end, people are free to argue for continued development of the Church's teaching on capital punishment. But it is to be accepted as definitive teaching at this moment in history that any use of capital punishment is inadmissible, and we are to work for the end to the use of such punishment in all jurisdictions which continue to use it. As part of the *Catechism of the Catholic Church* it is considered "safe" teaching we can share with our children and others who want to learn about our faith. And as defined teaching, Catholics are objectively putting themselves into a morally wrong situation if they are complicit in promoting the use of capital punishment in concrete cases or carrying out the act of capital punishment. Does that mean, then, that I am sinning if I still believe in the just use of capital punishment and argue for it? After all, capital punishment cannot be intrinsically evil, can it, if it was allowed for so many centuries?

Here we get into the complexity of Catholic thinking about the moral life. Can I, as a matter of conscience, object to the change in this teaching and continue to support the use of capital punishment? The quick answer is "Yes," because Church teaching on conscience says that we must always follow a well-formed conscience-based decision even if it is against the accepted teaching. But we have to be very careful here. Is the decision truly conscience-based? Many people do not form and develop and follow their conscience. Rather, they equate what they believe personally right now with an objective decision of conscience. Moreover, if we allow for conscience-based decisions in this situation which contradict a moral teaching of the Church, we are acknowledging that others might make such conscience-based decisions with

respect to other moral teachings. Almost all the debates in contemporary moral theology have to do with this interplay between the objective good/not good and the subjective or personal decision of someone. More next time.

OCTOBER 7, 2018

*** Final Thoughts on the Church's Official Condemnation of the Death Penalty**

Recently Pope Francis authorized a revision of the Catechism of the Catholic Church in the articles on just punishment, to condemn any use of the death penalty. No such use can be morally justified. Previous remarks appear in the September bulletins. I left open the question of what it means to disagree with this teaching "in conscience". I know there are a number of Catholics who do disagree. At the same time, it has now become the definitive teaching of the Catholic Church on this issue and is to be taught as such to current and future generations, encouraging them to not only be personally against the use of the death penalty but work to have changes in the laws, where necessary, so that society as a whole lives out this teaching as fully as possible. If one's disagreement with this teaching comes not from simply political motives or the feeling level, but from the deepest core of who one is—I have to believe in the just use of the death penalty or I am not being true to who I am at the deepest level—then it is possible that your conscience is leading you to that conclusion. But we also have to be willing to form that conscience further. That means, in this case, a willingness to appreciate the reasons for the Church's teaching; an openness to understanding those reasons in as generous a spirit as one can; a prayerful attempt to integrate that teaching into one's sense of moral goodness; and a humility in recognizing that raw emotions are not the source of good moral judgments. In the end, not just for this issue but for all issues, including defined Church teaching, we are to act in accord with a authentic, well-formed conscience.

The topics of Conscience and the Formation of Conscience is a huge one and can't be handled in these columns. We will have a formation night sometime on it in the future and I will write about more at that time. For now, I have published a small pamphlet on the stregis.org website, which offers more detailed insight into these topics. Follow the link under "Featured News" for the week, then click on "Pastor's Perspective". You will find the link there. You will see that it is not a simple process to have a mature, well-formed conscience. That is why the Church provides wisdom in the moral arena through its defined teaching. Can one disagree with such teaching and still be a "good Catholic"? Yes, given what I said about conscience above. But if one finds oneself in such disagreement, there is a good chance that one is not acting from a well-formed conscience or from the deepest level of who we are, the level from which conscience operates. When in doubt, we are asked to trust in the Church's teaching, as much as we are capable of doing.

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