

# A Refutation of the ELCA Social Statement on the Death Penalty

by Kenneth Lohr

THE statement of the Evangelical Lutheran Church in America on the death penalty<sup>1</sup> is a confusing document. It says that its teaching authority is not coercive<sup>2</sup> and that the moral deliberation on the death penalty is not finished; yet it commits the ELCA to work for the abolition of the death penalty.<sup>3</sup> It claims to affirm the Lutheran Confessions<sup>4</sup> and then proceeds to negate them. In my analysis of the social statement's argument, I begin with the Confessions.

The Augsburg Confession states:

Concerning public order and secular government it is taught that all political authority, orderly government, laws, and good order in the world are created and instituted by God and that Christians may without sin exercise political authority; be princes and judges; pass sentences and administer justice according to imperial and other existing laws; punish evildoers with the sword. . . . (art. 16, secs. 1-2)<sup>5</sup>

The Apology of the Augsburg Confession further explains:

The kingdom of Christ is spiritual [Luke 17:20; John 18:36]. . . . [T]he Gospel does not introduce laws concerning the civil state, but is the remission of sins and the beginning of a new life in the hearts of believers. . . . [P]rivate redress is prohibited, not by advice but by a command (Matt. 5:39; Rom. 12:19). Public redress, which is made through the office of the magistrate, is not advised against but is commanded, and is a work of God according to Paul. (art. 16, secs. 54, 58, 59)<sup>6</sup>

The Large Catechism also states:

Neither God nor the government are included in this [fifth] commandment.<sup>7</sup> Nor are they deprived in this commandment of their right to take human life. For God has delegated his authority to punish evildoers to the civil government. . . . Therefore what is forbidden here applies not to governments but to private individuals. . . . [T]he hangman does not sin against God's commandment because God himself instituted that office. (pt. I, secs. 180-181, 274)<sup>8</sup>

The Formula of Concord places under a list of "intolerable articles in the body politic" the following "errors of the Anabaptists":

That as occasion arises no Christian, without violating his conscience, may use an office of the government against wicked people, and that subjects may not call upon the government to use the power that it possesses and that it has received from God for their protection and defense. . . . That in the New Testament the government cannot with a clear conscience inflict capital punishment upon criminals. (Epitome art. 12, secs. 14, 16)<sup>9</sup>

Furthermore, in Romans 13:1-4, Paul states that the civil authority is the ordinance of God, and that in bearing the sword the civil ruler is "a minister of God, an avenger who brings wrath upon the one who practices evil."<sup>10</sup>

## ***Retribution Negated***

The social statement declares that members of the ELCA continue their deliberation, "upholding together the authority of Scripture, Creeds, and Confessions" (p. 2). Then under "An Affirmation," it again refers to "Scripture and the Lutheran Confessions," but what follows is

anything but an affirmation. Rather, it attempts to show that capital punishment is objectionable, and offers the fact that it is retributive as a reason why Christians should object to it: “Capital punishment focuses on retribution, sometimes reflecting a spirit of vengeance. . . . The death penalty exacts and symbolizes the ultimate personal retribution” (p. 3). Here the social statement negates the biblical and confessional position that retribution by the state is ordained by God.

The argument preceding the previous quotation must be examined. It claims that,

Renewed by the Gospel, Christians, as salt of the earth (Matt. 5:13) and light of the world (5:14), are called to respond to violent crime in the restorative way taught by Jesus (5:38-39) and shown by his actions (John 8:3-11). [p. 2]

I note from Matthew 5:38-39 that, although striking someone on the cheek may technically qualify as a violent crime, it is certainly not the clearest of examples. The illustrations that follow (5:40-42) are not violent crimes, nor is adultery (John 8:3-11).<sup>11</sup> The phrase quoted in Matthew 5:38—“An eye for an eye and a tooth for a tooth”<sup>12</sup>—denotes a principle of the Law of Moses.<sup>13</sup> In Matthew it is not an illustration of actual maiming. “Resist not evil” would indeed be an unwise counsel if the evil included life-threatening crimes. My contention is that Jesus presumed the validity and propriety of civil punishments to bind the evildoer’s hands,<sup>14</sup> and that this is precisely the reason why he condemned personal retribution. In Luke 23:39-43, for example, he voices no protest to the criminal’s statement, “We have been condemned justly, for the sentence we received corresponds to our crimes.”<sup>15</sup>

### ***Two Kingdoms Improperly Distinguished***

The section of the social statement under discussion begins by making a distinction between the Law and the Gospel. The concept of “Gospel” is developed, but the concept of “Law” is apparently transformed into “restorative justice,” which has little to do with the Law. What is really meant by this term is restorative *righteousness*, or charity, which pertains to the Gospel. The word “justice” when applied to civil law means “the assignment of merited rewards or punishments.”<sup>16</sup> The social statement has failed to distinguish between the kingdom of heaven and the kingdom of earth. The Apology addresses this very mistake:

How poor the judgment of many writers in these matters has been is evident from their erroneous view that the Gospel is something external, a new and monastic form of government. Thus they failed to see that the Gospel brings eternal righteousness to hearts, while it approves the civil government. (art. 16, sec. 8)<sup>17</sup>

Such poor judgment in the social statement becomes apparent in the following:

It is because of this church’s ministry with and to people affected by violent crime that we oppose the death penalty. Executions focus on the convicted murderer, providing very little for the victim’s family or anyone else whose life has been touched by the crime. (p. 3)

This is mere caviling. It’s not reasonable to condemn something because it fails to accomplish some end that is irrelevant to its purpose. It’s not the purpose of the death penalty (or any punishment) to heal the hurt of victims of violent crime or of their families. This silly objection rises out the previous application of an inapposite sense of “justice.”

### ***Root Causes vis-à-vis Contributing Conditions***

Another example of a crafty, manipulative use of ambiguous words is this remark: “Lutheran Christians have called for an assault on the root causes of violent crime, an assault for which executions are no substitute” (p. 3). Checking the supporting quotations in the social statement’s

endnote, one finds that the statement is not an accurate paraphrase. The LCA document<sup>18</sup> speaks of “social conditions which breed hostility toward society and disrespect for the law.” The ALC document<sup>19</sup> speaks of “conditions which contribute to crime.” The term “root cause” has a far different connotation than merely a contributing condition.

The social statement’s deviations from the Lutheran Confessions up to this point are located in matters pertaining primarily to civil punishment. The previous quotation, however, is an implicit deviation from central Christian doctrines, and as such warrants the designation “heresy.” The root cause of violent crime is the same as that of all sin: it is *in* human nature. There are two important aspects of this nature, one of which is freedom:

It is also taught among us that man possesses some measure of freedom of the will which enables him to live an outwardly honorable life and to make choices among the things that reason comprehends. . . . On the other hand, by his own choice man can also undertake evil, as when he wills to kneel before an idol, commit murder, etc. (Augsburg Confession art. 18, secs. 1, 7)<sup>20</sup>

The other aspect of human nature is our disposition toward evil, which theology calls original sin:

It is also taught among us that since the fall of Adam all men . . . are conceived and born in sin. That is, all men are full of evil lust and inclinations from their mothers’ wombs. . . . (Augsburg Confession art. 2, sec. 1)<sup>21</sup>

Human beings have the inclination toward evil, but they also have the freedom and capability of restraint in the *outward* matters of life. Moreover, the need for such restraint is easily grasped by human reason. Hence, in the Christian view, the single factor that may be considered the preeminent cause of violent crime is the individual’s own conscious decision—barring, of course, instances of insanity or diminished mental capacity.

The social statement, in calling social conditions the root causes of crime, suggests that violent criminal behavior is essentially the result of *external* conditions. Thus it implicitly denies both human freedom and the natural human disposition toward evil, which exists *independently* of any negative external stimulus. If its use of the term “root cause” does not seem to be sufficient grounds for this charge, then one should note that the statement goes on to say that executions “are no substitute” for an assault on the causes of crime. The implication is that the threat of punishment is completely ineffective in influencing human behavior. This also implies that people are somehow compelled to acts of violence by external forces. But it is not reasonable to hold that human beings have an inherent disposition toward evil and the freedom to act accordingly, yet maintain that these aspects of human nature play no significant role in acts of violence. Conversely, there is no logical reason to suggest that violent crime is fundamentally the result of external causes, but that less egregious evils are not the results of such cases. Hence, if one believes that violence at the individual level is caused by external conditions, the only reasonable next step is to deny human freedom and original sin. If human beings are without original sin, then they have little need of Christ for righteousness’ sake. If they do not have some measure of freedom, then both sin and righteousness are meaningless.

It should be said that social conditions do *contribute* to violence. Violent crime is not exclusively the failure of the individual, although it ultimately is. There are social factors that supply motives for crime. But, a motive, under the law, is not an excuse but a consideration that indicates the degree of a person’s guilt. Nevertheless, Christians in a democracy may and should strive toward correcting social conditions that foster crime.

### ***Determinism and Innate Goodness***

The social statement calls for a moral deliberation on this subject, “informed by reason and knowledge, including the social sciences” (p. 5). Here a note of caution is needed: the idea of the freedom of the human will is not necessarily a guiding principle of the social sciences. The philosophy of determinism maintains that all human behavior is the result of genetic and environmental causes, and that freedom of the will is an illusion. Determinism is popular in all quarters since it absolves human beings from all wrongdoing, real or imagined, but it is especially common among scholars of the human sciences.<sup>22</sup> Thus, what is to the Christian mind a contributing factor is often to the sociologist a cause (that is, a determinant).

Likewise, the idea that humans are naturally inclined toward evil is not universally accepted. Even where some measure of freedom is acknowledged, many observers believe that people are innately good. Thus criminal behavior is seen as abnormal, and so must have an external or abnormal physiological cause. These facts must be borne in mind by the Christian. It is important to ascertain the researcher’s bias and read his or her work critically. Christians must remember that while we can improve society, we cannot improve human nature. Even an ideal society would always have need of punishment.

**S**O far, I have considered the social statement’s departure from the Lutheran Confessions. Now I shall critique it on the basis of reason.

### ***Impartiality or Unfairness***

There is a faulty argument in the following: “The death penalty has not been and cannot be made fair. The race of the victim plays a role in who is sentenced to death and who is sentenced to life imprisonment. . .” (p. 4). If one assumes, for the sake of argument, that death is an appropriate punishment for murder, then a person who commits murder and is sentenced to death has received a just punishment. The fact that another murderer receives a somewhat more lenient sentence is not an injustice to the person receiving the death sentence. The study cited in the social statement<sup>23</sup> may demonstrate that courts have not been impartial in their sentencing, but this lack of impartiality (unfairness) in people is irrelevant to the legitimacy of the death penalty. One might explain this point by using an analogy. Employers are required by law, and rightly so, to be impartial with respect to race, sex, etc., in their hiring practices. Now if it were proved that employers were practicing flagrant discrimination in their hiring, one could not infer from this fact that employment is unfair and should be abolished. The maxim—“Misuse does not destroy the substance, but confirms its existence”<sup>24</sup>—may be applied here. There is another observation that should be made in comparing employment and punishment: applicants for employment are competing against one another for a limited number of openings. If favoritism is involved in hiring, then the winners of the competition may not truly deserve to win; consequently, the losers may not deserve to lose. But there is no similarity here with civil punishment. Those accused of crimes are not competing against each other for a limited quantity of punishment or mercy. Thus the fact that one criminal receives undue leniency has no bearing whatsoever on the justice of another criminal’s sentence. The social statement’s argument that discrepancies in sentencing are an injustice cannot be confined to its present application. If the death penalty is unjust because some of its candidates are sentenced only to life imprisonment without parole, then life without parole is unjust because some of its candidates receive an even lesser sentence, and so on.

### *Retribution and Necessity*

Many of the social statement's other objections to the death penalty are also irrelevant. The most important is that capital punishment is retribution. All punishments repay evil for evil. In fact, most punishments are acts that might otherwise be considered immoral. Killing, if it is not a punishment by the state, is murder. Fines are akin to extortion; seizure of property, theft; and imprisonment, kidnaping. Moreover, life imprisonment is a permanent revocation of freedom.

If one denounces retribution,<sup>25</sup> what logical reason is there to claim that imposing such a penalty as life imprisonment is not immoral? The answer commonly proposed today is that evil is justified when it is *necessary*; and imprisonment is necessary, whereas death generally is not. This view is implicit in the social statement's comment, "God entrusts the state with power to take human life when failure to do so constitutes a clear danger to society" (p. 2), that is, only when it is necessary for the safety of society, which is seldom or never.<sup>26</sup> Although this moralization seems reasonable at first glance, it is nearly useless in justifying civil punishment. The fact that a person has committed a crime does not indicate with certainty that he or she will do it again. A crime committed in the past poses no threat to society in the present. Therefore, if the punishment of any particular person must be necessary for the safety of society, that person must clearly be a habitual criminal. The idea that evil is justified only when necessary for public safety is thus impracticable as a general moral guideline. Individuals have freedom of the will, so we cannot know what is necessary (or sufficient) for the prevention of future crimes; we only know whether the punishment is commensurate with the crime already committed.<sup>27</sup>

**T**HE social statement ignores Scripture, the Lutheran Confessions, and reason in favor of the current popular philosophy. The statement—"God entrusts the state with power to take human life when failure to do so constitutes a clear danger to society"—amends the commandment of God. Thus it teaches as doctrine the precepts of human beings,<sup>28</sup> but it is the nature of the amendment that is truly dangerous. It substitutes necessity for retribution as the justification for evil. The condemnation of retribution condemns nearly every civil penalty, and it implies that the imposition of punishment negates social moral standards. Consider the following statements: "Executions harm society by mirroring and reinforcing existing injustice" (p. 3); and, "The practice of the death penalty undermines any possible moral message we might want to 'send'" (p. 4). The suggestion here is that the death penalty is the state's implicit endorsement of murder. Though this suggestion is half-baked, it is nevertheless widely received in today's intellectual climate. Moreover, the corollaries are absurd. It follows that imprisonment is the state's implicit endorsement of kidnaping; seizure of property, of theft; and fines, of extortion. The former LCA called for "a massive assault on those social conditions which breed hostility toward society and disrespect for the law." Such an assault must begin by publicly condemning the ELCA statement on the death penalty.

To summarize, the social statement is crafty, illogical, implicitly heretical, and undermining to civil government. It should be rescinded, and the procedure for developing social statements revised. The fact that these documents are not coercive in their teaching authority should not be a license for them to contradict the Lutheran Confessions.

**Notes** (all web links accessed 8 Jan. 2020)

1. *A Social Statement on The Death Penalty* (Evangelical Lutheran Church in America, 1991). <http://www.elca.org/Faith/Faith-and-Society/Social-Statements> . Page numbers cited for the social statement refer to the first printing of the pamphlet, or PDF format.
2. “Social statements of our church do not intend to end . . . diversity by ‘binding’ members to a particular position” (p. 2). “In their use as teaching documents, their authority is persuasive, not coercive” (p. 6, note 1).
3. “we direct state public policy offices and the Lutheran Office for Governmental Affairs to work against the death penalty; . . . we ask congregations, synods, agencies, and institutions of this church to support the work of state advocacy offices and the Lutheran Office for Governmental Affairs in effecting the abolition of the death penalty” ( pp. 5-6).
4. The “Lutheran Confessions,” that is, the **Book of Concord**, first published in 1580. See the *Model Constitution for Congregations of the Evangelical Lutheran Church in America*, sections C2.05 and C2.06. The Theodore G. Tappert translation of the Book of Concord and the F. Samuel Janzow translation of the Large Catechism quoted in this work are still in print.
5. Robert Kolb and Timothy J. Wengert, eds., *The Book of Concord: The Confessions of the Evangelical Lutheran Church* (Minneapolis: Fortress Press, 2000), p. 48.

The sixteenth article of the Augsburg Confession was accepted without reservation by the Catholic theologians. See the “Roman Confutation,” Pt.1, art. 16. <http://bookofconcord.org/confutatio.php>  
Further examples of the concurrence of Christian tradition:

“There are some exceptions made by the divine authority to its own law, that men may not be put to death. These exceptions are of two kinds, being justified either by a general law, or by a special commission granted for a time to some individual. And in this latter case, he to whom authority is delegated, and who is but the sword in the hand of him who uses it, is not himself responsible for the death he deals. And, accordingly, they who have waged war in obedience to the divine command, or in conformity with His laws have represented in their persons the public justice or the wisdom of government, and in this capacity have put to death wicked men; such persons have by no means violated the commandment, *Thou shalt not kill.*” Saint Augustine, *The City of God*, Book 1, ch. 21. <http://www.newadvent.org/fathers/120101.htm>

“He who takes vengeance on the wicked in keeping with his rank and position does not usurp what belongs to God, but makes use of the power granted him by God. For it is written (Rom. 13:4) of the earthly prince that *he is God’s minister, an avenger to execute wrath upon him that doeth evil.*” Thomas Aquinas, *Summa Theologica*, Pt. 2, second part, q. 108, art. 1. <http://www.newadvent.org/summa/3108.htm>

“In various countries, the men who are put in positions over other men are like executors of divine providence; indeed, God through the order of His providence directs lower beings by means of higher ones, as is evident from what we said before. But no one sins by the fact that he follows the order of divine providence. Now, this order of divine providence requires the good to be rewarded and the evil to be punished, as is shown by our earlier remarks. Therefore, men who are in authority over others do no wrong when they reward the good and punish the evil. . . . And in 1 Peter (2:13-14) it is said: *Be subject therefore to every human creature for God’s sake: whether it be to the king as excelling, or to governors as sent by him for the punishment of evildoers and for the praise of the good.* Now by this we set aside the error of some who say that corporeal punishments are illicit to use. . . . [Our Lord] makes us understand that the killing which results from anger is prohibited, but not that which stems from a zeal for justice.” Thomas Aquinas, *Summa Contra Gentiles*, Book 3, pt. 2, ch. 146.

“Another kind of lawful slaying belongs to the civil authorities, to whom is entrusted power of life and death, by the legal and judicious exercise of which they punish the guilty and protect the innocent. The just use of this power, far from involving the crime of murder, is an act of paramount obedience to this Commandment which prohibits murder. The end of the Commandment is the preservation and security of human life. Now the punishments inflicted by the civil authority, which is the legitimate avenger of crime, naturally tend to this end, since they give security to life by repressing outrage and violence.” *The Catechism of the Council of Trent* (1556). <http://catholicapologetics.info/thechurch/catechism/TenCommandments-fifth.shtml>

“It is another part of the office of magistrates, that they ought forcibly to repress the waywardness of evil men, who do not willingly suffer themselves to be governed by laws, and to inflict such punishment on their offenses as God’s judgment requires; for he expressly declares that they are armed with the sword, not for an empty show, but that they may smite evil-doers. . . . This is a remarkable passage for the purpose of proving the right of the sword; for if the Lord, by arming the magistrate, has also committed to him the use of the sword, whenever he visits the guilty with death, by executing God’s vengeance, he obeys his commands. Contend then do they with God who think it unlawful to shed the blood of wicked men.” John Calvin, *Commentary on Romans*. <https://www.studydrive.org/commentaries/cal/romans-13.html>

6. Friedrich Bente et al., trans., *Triglot Concordia: The Symbolic Books of the Evangelical Lutheran Church* (St. Louis: Concordia Publishing House, 1921). [http://bookofconcord.org/defense\\_15\\_politicalorder.php](http://bookofconcord.org/defense_15_politicalorder.php)

The passages quoted are designated as sections 2, 6 and 7 in some editions of the Book of Concord.

7. The fifth (or sixth) commandment, “Thou shalt not kill” (Exod. 20:13), which is better translated, “Thou shalt do no murder” (Matt. 19:18). For more about the numbering of the Decalogue, see Neil MacQueen, “The Numbering of the Ten Commandments.” <http://www.sundaysoftware.com/ten/number.htm>

8. F. Samuel Janzow, trans., *Luther’s Large Catechism: A Contemporary Translation with Study Questions* (St. Louis: Concordia Publishing House, 1978), pp. 41, 56.

9. Theodore G. Tappert et al., trans., *The Book of Concord: The Confessions of the Evangelical Lutheran Church* (Philadelphia: Fortress Press, 1959), p. 499.

10. Cf. 1 Pet. 2:13-14.

11. John 8:3-6 *The scribes and the Pharisees brought a woman who had been caught in adultery. . . . They said to him, “Teacher, this woman has been caught in the act of adultery. Now in the Law Moses commanded us to stone such women. So what do you say?” This they said to test him, that they might have some charge to bring against him.*

The Jews did not have authority under Roman law to carry out a death sentence. See John 18:31, *Pilate said to them, “Take him yourselves and judge him by your own law.” The Jews said to him, “It is not lawful for us to put anyone to death.”*

12. Exod. 21:23-25; Lev. 24:20; Deut. 19:21.

13. The principle is that the punishment should fit the crime. See Lev. 24:17-20, *Whoever takes a human life shall surely be put to death. . . . If anyone injures his neighbor, as he has done it shall be done to him, fracture for fracture, eye for eye, tooth for tooth: whatever injury he has given a person shall be given to him,* and Deut. 19:19, *You shall do to the false witness just as the false witness had meant to do to the other.* For other examples see Num. 35:31, *You shall not accept indemnity in place of the life of a murderer who deserves the death penalty; he must be put to death,* and Gen. 9:6 (which antedates the Mosaic Law), *Whoever sheds man’s blood, by man shall his blood be shed.*

14. Jesus spoke approvingly of capital punishment (or “destruction”) in the following instances: Matt. 15:4-6 [parallel Mark 7:10-13]; Matt. 22:6-7 (Parable of the Wedding Banquet); Matt. 26:52; Mark 12:9 (Parable of the Wicked Tenants [parallel Luke 20:16]); Luke 19:14, 27 (Parable of the Ten Minas). And in Matt. 5:17 he said, *Do not think that I have come to abolish the Law or the Prophets; I have not come to abolish them but to fulfill them.*

C.S. Lewis points out, “It is no good quoting ‘Thou shalt not kill.’ There are two Greek words [*ἀποκτείνω, apokteino* and *φονεύω, phoneuo*]: the ordinary word to *kill* and the other word to *murder*. And when Christ quotes that commandment He uses the *murder* one in all three accounts, Matthew [5:21; 19:18], Mark [10:19], and Luke [18:20]. And I am told there is the same distinction in Hebrew. All killing is not murder any more than all sexual intercourse is adultery. When soldiers came to St. John the Baptist asking what to do [Luke 3:14], he never remotely suggested that they ought to leave the army; nor did Christ when he met a Roman sergeant-major [Matt. 8:5-13; Luke 7:2-10]” (*Mere Christianity* [1952; New York: HarperCollins Publishers, 2001], Book 3, ch. 7).

For more about the death penalty in the New Testament age, see Randy Alcorn, “Capital Punishment: Right or Wrong?” Eternal Perspective Ministries, <http://www.epm.org/resources/1987/Aug/01/capital-punishment-right-or-wrong/>

15. This story in Luke also contradicts the social statement’s insinuation that execution denies the criminal the opportunity for repentance: “Our challenge is to incapacitate offenders in a manner that limits violence, and holds open the possibility of conversion and restoration” (p. 3).

Thomas Aquinas said:

“When. . . [individuals] fall into very great wickedness, and become incurable, we ought no longer to show them friendliness. It is for this reason that both Divine and human laws command suchlike sinners to be put to death, because there is greater likelihood of their harming others than of their mending their ways. . . . Moreover the death inflicted by the judge profits the sinner, if he be converted, unto the expiation of his crime; and, if he be not converted, it profits so as to put an end to the sin, because the sinner is thus deprived of the power to sin any more.” *Summa Theologica*, Pt. 2, second part, q. 25, art. 6. <http://www.newadvent.org/summa/3025.htm>

“According to the order of His wisdom, God sometimes slays sinners forthwith in order to deliver the good, whereas sometimes He allows them time to repent, according as He knows what is expedient for His elect. This also does human justice imitate according to its powers; for it puts to death those who are dangerous to others, while it allows time for repentance to those who sin without grievously harming others.” Op. cit., q. 64, art. 2. <http://www.newadvent.org/summa/3064.htm>

“The fact that the evil, as long as they live, can be corrected from their errors does not prohibit the fact that they may be justly executed, for the danger which threatens from their way of life is greater and more certain than the good which may be expected from their improvement. They also have at that critical point of death the opportunity to be converted to God through repentance. 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.” *Summa Contra Gentiles*, Book 3, pt. 2, ch. 146.

16. *Webster’s Ninth New Collegiate Dictionary* (Springfield, Mass.: Merriam-Webster, Inc., 1987).

17. Tappert, p. 223. The passage quoted is designated as section 60 in some editions of the Book of Concord.

18. *Capital Punishment* (Lutheran Church in America, 1966).

19. *Capital Punishment* (American Lutheran Church, 1972).

20. Tappert, pp. 39, 40.

21. Op. cit., p. 29.

22. “Many psychologists criticize administration of justice based on the idea of free will and responsibility without realizing that, if valid, determinism applies to everybody: if a criminal cannot avoid committing a crime, then neither can the judge avoid sentencing him, nor can the executioner avoid quartering him. Unless we assume that individuals can make decisions, and are responsible for at least some of their deeds, there is no reason why we should regard any action as good or bad, or try to refrain from doing harm to our fellow beings; and moral exhortation is meaningless. Taken as proof of non-existence of responsibility, the doctrine of psychological determinism exculpates the supporters of apartheid and the police torturers in Brazil just as much as the mixed-up young delinquents, but in practice this argument is used very selectively in accordance with the ‘scientist’s’ likes and dislikes, often applied only to those who provide him with vicarious gratification of his pet hatreds and suppressed proclivities. To a large extent it all boils down to the game of playing God by psychologists, sociologists and above all psychiatrists who borrow the prestige of science to foist their often very crude moral notions upon the public. . . . [T]he denigration of the concept of responsibility, based on the unwarranted dogma of psychological determinism, has contributed significantly to the undermining of our civilization.” Stanislav Andreski, *Social Sciences as Sorcery* (1972; New York: St. Martin’s Press, 1973), ch.2, pp. 23-24.

23. The social statement’s endnote 12 mentions the David Baldus study in Georgia. For discussion of this study, see Kent Scheidegger, “Smoke and Mirrors on Race and the Death Penalty,” *Engage* 4, No. 2, pp. 42-45, <http://www.cjlf.org/deathpenalty/DPenaltyRace.pdf>; and “Rebutting the Myths About Race and the Death Penalty,” *Ohio State Journal of Criminal Law* 10, No. 1 (Fall 2012), pp. 147-165, [https://kb.osu.edu/bitstream/handle/1811/73639/OSJCL\\_V10N1\\_147.pdf](https://kb.osu.edu/bitstream/handle/1811/73639/OSJCL_V10N1_147.pdf).

24. Quoted in Large Catechism, Pt. 4 [Baptism], sec. 59.

25. “Some enlightened people would like to banish all conceptions of retribution or desert from their theory of punishment and place its value wholly in the deterrence of others or the reform of the criminal himself. They do not see that by so doing they render all punishment unjust. What can be more immoral than to inflict suffering on me for the sake of deterring others if I do not *deserve* it? And if I do deserve it, you are admitting the claims of ‘retribution.’ And what can be more outrageous than to catch me and submit me to a disagreeable process of moral improvement without my consent, unless (once more) I *deserve* it? On . . . [a sterner] level we get vindictive passion—the thirst for revenge. This, of course, is evil and expressly forbidden to Christians. But it has perhaps appeared already . . . that the ugliest things in human nature are perversions of good or innocent things. The good thing of which vindictive passion is the perversion comes out with startling clarity in Hobbes’s definition of Revengefulness, ‘desire by doing hurt to another to make him condemn some fact of his own.’ Revenge loses sight of the end in the means, but its end is not wholly bad—it wants the evil of the bad man to be to him what it is to everyone else.” C. S. Lewis, *The Problem of Pain* (1940; New York: HarperCollins Publishers, 2001), ch. 6, pp. 91-92.

“[V]engeance is a special virtue. . . . Two vices are opposed to vengeance: one by way of excess, namely, the sin of cruelty or brutality, which exceeds the measure in punishing; while the other is a vice by way of deficiency and consists in being remiss in punishing, wherefore it is written (Prov 13:24): *He that spareth the rod hateth his son*. But the virtue of vengeance consists in observing the due measure of vengeance with regard to all the circumstances.” Thomas Aquinas, *Summa Theologica*, Pt. 2, second part, q. 108, art. 2. <http://www.newadvent.org/summa/3108.htm>

“The apostle Paul told the Romans that revenge and retribution are different things entirely. ‘Never try to get revenge: leave that, my dear friends, to the retribution. As Scripture says, vengeance is mine—I will pay them back, the Lord promises’ [Romans 12:19]. But then just a few verses later, Paul notes that ‘if you do wrong, then you may well be afraid; because it is not for nothing that the symbol of authority is the sword; it is there to serve God, too, as his avenger, to bring retribution to wrongdoers’ (Romans 13:4). . . . Clearly, the Christian Testament regards retribution by the state as not only different from vengeance, but rather as opposite. Vengeance is always personal and it is only rarely proportional to the offence. The Hebrew standard of justice, ‘an eye for an eye,’ replaced the hateful and very personal ‘head for an eye’ standard of vengeance. Retribution is impersonal punishment by the state. And impersonal punishment is far more likely to be proportionate to the crime, meaning that it comes closer to the standard of ‘eye for an eye’” (Eddlem 2002 [full citation under **Further Reading**]).

26. The assertion that the death penalty is justified *only* when it is absolutely necessary for the public safety was made by Pope John Paul II in his 1995 encyclical, **Evangelium vitae** (see §§55-56), [w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf\\_jp-ii\\_enc\\_25031995\\_evangelium-vitae\\_en.html](http://w2.vatican.va/content/john-paul-ii/en/encyclicals/documents/hf_jp-ii_enc_25031995_evangelium-vitae_en.html). No such restriction has ever before existed in official Vatican teaching; and the pope’s encyclical makes no such stipulation about life imprisonment. John Paul’s false teaching had already been incorporated into the provisional **Catechism of the Catholic Church** of 1994, which was finalized in 1997 (see §§2263-2267),



[http://www.vatican.va/archive/ccc\\_css/archive/catechism/p3s2c2a5.htm](http://www.vatican.va/archive/ccc_css/archive/catechism/p3s2c2a5.htm).

Both **Evangelium vitae** and the 1997 **Catechism of the Catholic Church** support their position by misapplying to the discussion of capital punishment select portions of the following passage from the **Summa Theologica**: “Moral acts take their species according to what is intended, and not according to what is beside the intention, since this is accidental as explained above. Accordingly the act of self-defence may have two effects, one is the saving of one’s life, the other is the slaying of the aggressor. Therefore this act, since one’s intention is to save one’s own life, is not unlawful, seeing that it is natural to everything to keep itself in being, as far as possible. And yet, though proceeding from a good intention, an act may be rendered unlawful, if it be out of proportion to the end. Wherefore if a man, in self-defence, uses more than necessary violence, it will be unlawful: whereas if he repel force with moderation his defence will be lawful, because according to the jurists, it is lawful to repel force by force, provided one does not exceed the limits of a blameless defence. Nor is it necessary for salvation that a man omit the act of moderate self-defence in order to avoid killing the other man, since one is bound to take more care of one’s own life than of another’s. But as it is unlawful to take a man’s life, EXCEPT FOR THE PUBLIC AUTHORITY ACTING FOR THE COMMON GOOD, as stated above, it is not lawful for a man to intend killing a man in self-defence, EXCEPT FOR SUCH AS HAVE PUBLIC AUTHORITY. . .” (Pt. 2, second part, q. 64, art. 7, <http://www.newadvent.org/summa/3064.htm> ).

So it is clear from the original context that WHEN THOMAS SAYS THE USE OF MORE THAN NECESSARY VIOLENCE IS UNLAWFUL, HE IS TALKING ABOUT PERSONAL SELF-DEFENSE, NOT ABOUT PUNISHMENT BY THE STATE OR THE DEFENSE OF SOCIETY. St. Thomas clearly says elsewhere that “to punish the wicked is not in itself evil” (*Summa Contra Gentiles*, Book 3, pt. 2, ch. 146, ¶ 3.)

**Evangelium vitae** uses other noteworthy tricks. The commandment, *You shall not kill*, is quoted in support of the inviolability of life (§§41, 48, 52, 53, 54), ignoring the fact that the commandment forbids murder, not all killing. Likewise, Genesis 9:5-6 is cited in support of the inviolability of life (§§39, 53), but the words, *Whoever sheds the blood of man, by man shall his blood be shed*, are omitted from the quotation. For further criticism of John Paul’s position, see Antonin Scalia, “God’s Justice and Ours,” *First Things*, May 2002, posted at <http://www.firstthings.com/article/2002/05/gods-justice-and-ours> ; Kevin L. Flannery, “Capital Punishment and the Law,” *Ave Maria Law Review* 5, No. 2 (Summer 2007), pp. 399-428, <http://avemarialaw-law-review.avemarialaw.edu/Content/articles/V5i2.flannery.copyright.pdf> .

Pope Francis has condemned the use of capital punishment in any circumstances whatsoever, on the grounds that it is “vengeance” (i.e., punishment in kind) and “an offence against the inviolability of life.” He explained that when criminals are deprived of their liberty, the threat they pose is neutralized. But the pope went on to condemn life imprisonment because it “entails for the prisoner the impossibility of planning a future of freedom” (letter to Federico Mayor, president of the International Commission Against the Death Penalty, 20 Mar. 2015, excerpts posted at <http://www.catholicnewsagency.com/news/pope-francis-no-matter-what-the-crime-the-death-penalty-is-inadmissible-89127/> ).

In another forum he said, “A life sentence is just a death penalty in disguise.” He also condemned confinement in high security prisons as “torture,” since it might lead to anxiety, depression or weight loss. (address to the delegates of the International Association of Penal Law, 23 Oct. 2014, [https://w2.vatican.va/content/francesco/en/speeches/2014/october/documents/papa-francesco\\_20141023\\_associazione-internazionale-diritto-penale.html](https://w2.vatican.va/content/francesco/en/speeches/2014/october/documents/papa-francesco_20141023_associazione-internazionale-diritto-penale.html) ). And in 2018, Pope Francis changed the text of section 2267 of the **Catechism of the Catholic Church** to state explicitly that the death penalty is “inadmissible” under all circumstances (*National Catholic Register*, 2 Aug. 2018, <http://www.ncregister.com/blog/edward-pentin/pope-francis-changes-catechism-to-declare-death-penalty-inadmissible> ). For criticism of the catechism change, see “An Appeal to the Cardinals of the Catholic Church,” *First Things*, 15 Aug. 2018, <https://www.firstthings.com/web-exclusives/2018/08/an-appeal-to-the-cardinals-of-the-catholic-church> .

Popes John Paul and Francis have presumptuously imagined that they can annul the commands of God, and have taught that THE COMMENSURATE PUNISHMENT OF CRIME ORDAINED BY GOD IS MORALLY EQUIVALENT TO CRIME ITSELF. While mature Christians exercised in moral discernment (Heb. 5:14) easily see through the false teachings of John Paul and Francis, those teachings are accepted by the many people who have the “deceivableness of unrighteousness” and no commitment to truth (2 Thess. 2:10). Regarding abuse of the papal office, the **Treatise on the Power and Primacy of the Pope** (§§38-41) says this: “The canons also clearly teach that a heretical pope is not to be obeyed [Gratian, *Decretum*, Pt. I, distinction 40, ch. 6]. The Levitical high priest was the chief priest by divine right, and yet godless high priests were not to be obeyed, as Jeremiah and other prophets dissented from the high priests (Jer. 26:1-13), the apostles dissented from Caiaphas and did not have to obey them (Acts 4:6, 18-20; 5:27-29). Now it is manifest that the Roman pontiffs, with their adherents, defend godless doctrines. . . . And the marks of Antichrist plainly agree with the kingdom of the pope and his adherents. For Paul, in describing the Antichrist to the Thessalonians, calls him an adversary of Christ, ‘who opposes and exalts himself above every so-called god or object of worship, so that he takes his seat in the temple of God, displaying himself as being God’ (2 Thess. 2:4). He speaks therefore of one ruling in the church, not of heathen kings; and he calls this one the adversary of Christ because he will. . . . assume to himself divine authority. . . . [T]he pope does not want to be judged by the church or by anyone, and puts his own authority ahead of the decision of councils and the entire church. But to be unwilling to be judged by the church or by anyone is to make oneself God. . . . This being the case, all Christians. . . ought to desert and execrate the pope and his adherents as the kingdom of Antichrist; just as Christ has commanded, ‘Beware of false prophets’ (Matt. 7:15). And Paul commands that godless teachers should be avoided and execrated as cursed (Gal. 1:8-9; Titus 3:10).” <http://bookofconcord.org/treatise.php>

See also **Albert Barnes’ Notes** on 2 Thess. 2:3-4, <https://www.studydrive.org/commentaries/bnb/2-thessalonians-2.html> ; and **Matthew Henry’s Commentary** on Rev. 13:11-18,

<https://www.biblestudytools.com/commentaries/matthew-henry-complete/revelation/13.html> , and on 2 Peter 2:1, 10, *there shall be false teachers among you, who privily shall bring in damnable heresies, . . . that walk after the flesh in the lust of uncleanness, and despise government*, <https://www.biblestudytools.com/commentaries/matthew-henry-complete/2-peter/2.html> ; and **Adam Clarke's Commentary** on 1 John 2:18, *as ye have heard that antichrist shall come, even now are there many antichrists*, <https://www.studylight.org/commentaries/acc/1-john-2.html> .

27. "According to the judgment of the present life the death punishment is inflicted, not for every mortal sin, but only for such as inflict an irreparable harm, or again for such as contain some horrible deformity. Hence according to the present judgment the pain of death is not inflicted for theft which does not inflict an irreparable harm, except when it is aggravated by some grave circumstance, as in the case of . . . peculation, which is theft of common property. . . , and of kidnapping which is stealing a man, for which the pain of death is inflicted (Exod. 21:16)." Thomas Aquinas, *Summa Theologica*, Pt. 2, second part, q. 66, art. 6. <http://www.newadvent.org/summa/3066.htm>

"When we cease to consider what the criminal deserves and consider only what will cure him or deter others, we have tacitly removed him from the sphere of justice altogether; instead of a person, a subject of rights, we now have a mere object, a patient, a 'case'. . . . The first result of the Humanitarian theory [of punishment] is, therefore, to substitute for a definite sentence (reflecting to some extent the community's moral judgment on the degree of ill-desert involved) an indefinite sentence terminable only by the word of [the] experts" (Lewis 1949 [full citation under **Further Reading**]).

"What else than effeminacy is it to be so much more shocked by taking a man's life than by depriving him of all that makes life desirable or valuable? Is death, then, the greatest of all earthly ills? . . . Has it not been from of old one chief part of a manly education to make us despise death—teaching us to account it, if an evil at all, by no means high in the list of evils; at all events, as an inevitable one, and to hold, as it were, our lives in our hands, ready to be given or risked at any moment, for a sufficiently worthy object? . . . The men of old cared too little about death, and gave their own lives or took those of others with equal recklessness. Our danger is of the opposite kind, lest we should be so much shocked by death, in general and in the abstract, as to care too much about it in individual cases, both those of other people and our own, which call for its being risked. . . . It is not human life only, not human life as such, that ought to be sacred to us, but human feelings." John Stuart Mill, Speech to the British Parliament on capital punishment, 21 Apr. 1868. [https://en.wikisource.org/wiki/Speech\\_In\\_Favor\\_of\\_Capital\\_Punishment](https://en.wikisource.org/wiki/Speech_In_Favor_of_Capital_Punishment)

28. Is.29:13; Matt. 15:9; Mark 7:7

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