

THE MORAL IMPLICATIONS OF PUNISHMENT: AN ASPECT OF THOMAS AQUINAS' THEORY OF SOCIAL ORGANIZATION AND COMMON GOOD

Lawrence Boakye

***Abstract:** By the laws of nature mankind is inclined to seek life of civilization. But to form and hold together the life of civilization, there is the need to generate an entity to direct the affairs of the society and preserve positive civic qualities in citizens. Thomas Aquinas is of the view that members of a state can therefore lead good life if they meticulously create and implement constructive and common regulations as guidance towards civility. This design for civility according to Thomas Aquinas requires the individual and the society as a whole to develop in themselves high sense of morality, the knowledge of justice and injustice, and a strong sense of responsibility to seek what is good and worthy for peaceful living. A fundamental way to achieve this is based on the way we understand, embrace and respect the legitimate entity called authority, its mechanisms and guiding principles. This paper is a philosophical study on one of the major mechanisms of authority which is punishment. It discusses punishment within the framework of Aquinas' theory of common good. The paper explains punishment and its features, relevance and effectiveness, and how it can optimize its operational features towards social change and common good. It also discusses the process of the implementation of punishment, including capital punishment, and some contemporary perceptions on Aquinas' theory on punishment.*

Key Word: Morality; Social Order; Punishment; Justice; Common Good.

Introduction

The theory of common good calls common regulations and civic interests from individuals of a state as well as a developed moral sense, an awareness of right and wrong, justice and injustice, and the capacity combined with intelligence to seek what is laudable for the society. The objective of every good state is to guide, unite and create order for peace but the civic responsibility to guide and unite only holds when citizens acknowledge their responsibilities. For peace and order to prevail authority becomes very relevant. Every authority represents power; it is the invested power in the authority that gives the leader or group of leaders the ability to pursue a corporate purpose for the common good.

The power of authority is not to be reduced to violence; rather it must portray a solid and positive dimension of itself guided by judgement and common sense in all of its deliberations without which common good becomes unattainable. It is within this framework of Aquinas' concept of common good that this paper discusses punishment. The paper from philosophical perspective looks at the meaning and features of punishment; it discusses the essence of punishment by critically analyzing it from moral, political and legal standpoints. The paper discusses punishment as an instrument of authority, and the need for authority to be open and objective allowing the law to guide its steps when the need to punish pernicious criminals who conscientiously distort social order arises. The paper also looks into capital punishment, the arguments for and against capital punishment, and the position Aquinas took in the 12th Century regarding capital punishment for the sake of common good. An evaluation on this standpoint will be discussed and the reason why his opinion on capital punishment is still prevalent and relevant today.

Features of Punishment

In every society there are rules and regulations designed to guide towards the realization of peaceful co-existence and common good. But when people exceedingly disclaim obeying stipulated rules and regulations provided for state building, what should be the reaction of the society in general? Is the society supposed to show love and forgiveness instead of hate and punishment? Or, should the society accept that those who are involved in disruptive behaviors in society are pathologically ill, and as a result, cannot avoid acting as such, therefore cure but not punishment must be given to them? From a philosophical perspective we can provide some useful indications to the solving of these questions by firstly analyzing the three major characteristics of punishment:

For three characteristics belongs to the nature of punishment. One of which is that it has regard to fault, for someone is properly said to be punished when he suffers evil for some act he has committed...The second characteristics of the nature of punishment is that it is contrary to the will. For everyone's will is inclined to his own good; hence to be deprived of one's own good is contrary to the will...The third characteristic seems to belong to the nature of punishment as it consists in a kind of suffering or undergoing, for those things which happen contrary to the will are not from an intrinsic principle, i.e, the will, but

from an extrinsic principle, the effect of which is called a suffering or undergoing.¹

Thus, the medieval philosopher, Aquinas, sees punishment as a consequence of wrong or culpability by a person. *Peccatum facit hominem esse reum poenae, unde reatus poenae directe ponitur effectus peccati*;² thus, erroneous human acts deserve punishment and consequently the debt of punishment is considered to be directly the effect of depravity. From the above quote from Aquinas' *De Malo*, punishment in its primary sense has some basic conditions satisfied by a standard case to which the word would be applied. 'Punishment must involve an evil, an unpleasantness to a particular victim or the society at large; secondly it must be for an offence, and it must be of an offender. And finally authority must be guided by the system of rules against which the offence that has been committed to impose punishment'.³ In the application of punishment the first factor is to understand the nature of wrongdoing in relation to human freedom. It is therefore only applicable to the human person who has reason and freewill. The possession of reason and this freedom of choices is therefore an ability that comes with prohibitions, rewards, punishments, and accountability.⁴ Misconduct or wrongdoing emerges from the freewill of the human person where also the aspect of guilt and punishment preside. Consequently, when we act wrongly, the usage of the will and the reason appropriately renders that act evil or wrong, and every wrong act goes against not only the human person in question but affects the whole society in general.

¹ Thomas, Aquinas, *De Malo*, q. 1, art. 4, in *Le Questioni Disputati*, (Bologna: Edizione Studio Domenicano, 2002): 'Respondeo... sunt enim tria de ratione poenae. Quorum unum est quod habeat respectum ad culpam; dicitur enim proprie aliquis puniri, quando patitur malum pro aliquo quod commisit. Habet autem hoc traditio fidei, quod nullum nocumentum creatura rationalis potuisset incurere neque quantum ad animam neque quantum ad corpus neque quantum ad aliqua exteriora, nisi peccato praecedente, vel in persona, vel saltem in natura... Secundum vero quod pertinet ad rationem poenae est quod voluntati repugnet. Voluntas enim uniuscuiusque inclinationem habet in proprium bonum; unde privari proprio bono voluntati repugnant... Tertium vero esse videtur de ratione poena ut in quadam passione consistat: ea enim quae contra voluntatem eveniunt, non sunt a principio intinseco quod est voluntas, sed a principio extrinseco cuius effectus passio dicitur'; also see A., Thomas, A., *On Evil*, trans. J.T. Oesterle (Indiana: University of Notre Dame Press, 1995), 29.

² *ST*, Ia-IIae, q. 87, a. 1, ad 2.

³ Herbert Morris, ed., *Freedom and Responsibility: Readings in Philosophy and Law*, (Stanford, CA: Stanford University Press, 1961), 518.

⁴ Thomas, Aquinas, *Summa Theologica (ST)*, trans. Fathers of the English Dominican Province (New York: Benzinger Brother, Inc., 1947), Ia, q. 83, a. 1.

The fundamental character of society and civilization is common good and order. In effect, the creation and preservation of this order seek the implementation of some contingent and favorable conditions for its stabilization. This makes the human person, a social being, a subject to the order and to common good as well. Thus, when one commits an offence it is in no doubt that it becomes a transgression of the order and the common good in a whole. As DeTorre explains, ‘the failure to relate oneself to the common good through selfishness is precisely what is called sin; this brings maladjustment to others in the society. It is an element of disruption, of disunity, because it involves a disorderly love of oneself, which makes the person incommunicative and thereby un-social’.⁵

The Civil Society and Order

Naturally the human will is molded to subject to three basic kinds of orders: the order to the reason, order of human government, and the universal order to divine governance. When the human person commits any sort of infraction or digression willingly against the prescribed order in society he breaks the natural routine of system flow of order and common good. To protect the natural routine towards the common good we must encourage good deeds, the prohibition of evil, and the punishment of criminals if the need be.⁶ This is the only way a state can be moved towards appropriate social change and development. The objective of common good is to produce civil society (*congregatio civilis*), which encourages citizens not simply to live but to live well (*ad bene vivendum*) and to live in virtue (*vivere secundum virtutem*). In effect, it can be said that the true intention of civil society which is for peaceful existence empowers authority to promote decent life prescribing values that lead to the fulfillment of this vision and forbid as far as possible the contraries.⁷

⁵ Joseph DeTorre, *Person, Family, and State: An Outline of Social Ethics* (Manila: Southeast Asian Science Foundation, 1991), 146.

⁶ George Friel, *Punishment in the Philosophy of Saint Thomas Aquinas and Among Some Primitive Peoples* (Washington DC: Catholic University Press, 1939), 158.

⁷ John Finnis, *Aquinas: Moral, Political, and Legal Theory* (Oxford: Oxford University Press, 1998), 228-229: Finnis makes remarks on Aquinas’ concept of punishment by explaining that every form of punishment proposes an ambitious purpose for state rule and acknowledges no limit on the inherent scope of that purpose. The political community has to act well, and this is possible when the parts (individuals) that form the group act well. The community needs unity and this unity is called peace, which has to be procured by authority responsible, restraining subjects from

From this point of view, we can say that deliberate wrongdoing could be considered as selfishness and the failure to relate to oneself and fellow society members in justice. This conveys with it a kind of maladjustment, interruption of social order, and comes with it the elements of disruption and disunity. Hence all contraries, possible harm, wrongdoing, and all causes of disturbances of communal growth and state building are negative that needs to be corrected and repressed. Aquinas expressed same idea stating that:

Tribulation and anguish upon every soul of man that worketh evil. But to do evil is to sin. Therefore sin brings punishment, called in this text 'tribulation' and 'anguish'. That in human sphere an aggressor suffers some detriment in return has a parallel in nature. For in natural things we see that one contrary reacts violently to impingement by its opposite; this is why hot water freezes quickly, as Aristotle notes. Thus with men, too, we observe that it is a natural reaction for one to put down another who attacks him. Now it is clear that all those elements contained in any order are in some sense one in their relationship to the principle of that order. Thus, an aggressor against the order is as a consequence put down by the whole order and its head. Since sin is an act that lacks due order, it is clear that whoever sins is in conflict with some kind of order. Therefore as a consequence he is repressed by that order. Such repression is what punishment is.⁸

In effect we can agree with Aquinas that punishment is a natural and intrinsic accompaniment of order, to punish is nothing other than a particular way of engaging and fulfilling the work of order and the way that must be taken when things resist or deviate from the direction proposed by the dynamism of this order. Therefore, as long as human

immorality and leading them to virtuous action. Thus according to Finnis, Aquinas takes into consideration the need to check the possible harm that could be done to the society through wrongdoings, which can cause the disturbance of peace of the whole society in question.

⁸ *ST*, Ia-IIae, q. 87, a. 1, corpus: "Respondeo tribulatio et angustia in omnem animam operantis malum. Sed operari malum est peccare. Ergo peccatum inducit poenam quae nomine tribulationis et angustiae designatur". Corpus: "Dicendum quod ex rebus naturalibus ad res humanas derivatur ut id quod contra aliquid insurgit ab eo detrimentum patiat. Videmus enim in rebus naturalibus quod unum contrarium vehementius agit altero contrario superveniente; propter quod aquae calefactae magis congelantur, ut dicitur in I Meteor. Unde et in hominibus hoc ex naturali inclinatione invenitur ut unusquisque deprimat eum qui contra ipsum insurgit. Manifestum est autem quod quaecumque continentur sub aliquo ordine sunt quodammodo unum in ordine ad principium ordinis. Unde quidquid contra ordinem aliquem insurgit, consequens est ut ab eo ordine et principe ordinis deprimatur. Cum autem peccatum sit actus inordinatus, manifestum est quod quicumque peccat contra aliquem ordinem agit. Et ideo ab ipso ordine consequens est quod deprimatur. Quae quidem depressio poena est".

transgressions affect the triple human order, we bear the responsibility to apply punishment respectively for the readjustment and reestablishment of it if need be.

Punishment as Instrument of Authority

Once the person goes against the law voluntarily by committing an offence he creates interior disorder for the self and exterior disorder for the society. In relation to offence against the society authority addresses the situation by executing justice as regards to the offence of the guilty party. The appliance of justice in this case becomes an appropriate common action of the society to help the offender to return and resituate the self in social order. For punishment to be effective in this case, the offender has to be subjected to something not to his liking by authority. It is essentially a matter of the taking away from the offender a kind of social advantage he possesses to undergo prescribed requirements of sanctions authoritatively specified. Agreeing with Aquinas, this form of undergoing practice of prescribed sanctions for reparation of damages done in a proper manner can bring about the restoration and the balance of justice.⁹ ‘Punishment, therefore involves compensation for injurious losses’,¹⁰ hence for example, in the process of civil litigation on punishment authority in question (in this case the court of law) needs to use prudent proceedings to determine right impositions; to relax, remit, or withhold penalties with a view to satisfy the wider considerations of public and common good. What this also implies is that all forms of punishment and their implementation must strive to create improvement in the life of the offender. It must be medicinal or therapeutic, containing remedial processes for which involves far more than the possible the reform of the offender including restraining, deterrence, and coercive inducement into the whole community by the wrong doer’s conduct.¹¹

The essence of punishment is not merely for the exertion of pain on an offender. It is a compelling instrument used to restore and bring back to the right pathway an offender by precisely subtracting proportionately through suppression of freedom or autonomy taken for granted and mischievously used. Punishment resets the order that has been broken, it is

⁹ *ST*, Ia-IIae, q. 87, aa. 1, and 6.

¹⁰ Finnis, *Aquinas*, 210-211.

¹¹ Finnis, *Aquinas*, 212.

not to be measured by the harm that has been created but by the scale of the offender's fault. Thus, when authority succeeds in this approach then punishment truly becomes medicinal and reformative. The measurement of fairness also becomes useful when the infliction of punishment carries good consequences on the whole community including the wrongdoer. In the same way, good conversion resulting from punishment must be seen as the most relevance but not the suffering and the castigation experienced by the one punished. If punishment seems terribly costly in terms of suffering to the one punished then there is something wrong with the rule.

Punishment must achieve the aim of reforming the wrongdoer, it must help the wrongdoer recognize his faults and feel remorse about his own conduct. It must come with the taking of true measures of one's own actions and stand in self-judgment but must not rather lead to the loss of self-respect and the feeling of resentment towards the authority and the society.¹²

It is observed that sometimes deterrence by extreme or severe punishment does not work on offenders who deliberately break the law. Consequently in the face of deep conviction a conscientious objector in the society may not be deterred by the outcome of his action, a clear example have been seen in many circumstances especially within the polemics and activities of civil disobedience. Accordingly we must see punishment as a 'technique of social control which is justified as long as it prevents more mischief than it produces. At the point where damage to criminals outweighs the expected advantage to society, it must operate by only reforming the criminal, preventing a repetition of the offence, and by deterring others from imitating it'.¹³

When we punish with the intention of using the act of punishment as deterrent, it is essential that we treat the person in question as an end but not a means to the welfare of other people. However, this does not also imply that the welfare of the offender be placed above that of innocent citizens. Punishment is only justified when it is deserved and the guilt is composed of a breach to moral and legal rule. If it is inflicted for any other reason whatsoever because it is merited by wrong, it

¹² Peter Nash, *Authority and Freedom in Education: An Introduction to the Philosophy of Education* (New York: John Wiley and Sons, 1966), 116.

¹³ Morris, *Freedom and Responsibility*, 520ff: also see ST, Ia-IIae, q. 87, a. 7, ad 3.

becomes a gross immorality and injustice. It must therefore seek to achieve the principal advantage of securing conformity to rules, that it reforms a criminal character and give an injured person the satisfaction of reprisal.¹⁴ ‘It may seem to be afflictive to the offender because it opposes to his will, but it is good because it restores the offender to the equality and order of justice and restrain him from further crimes’.¹⁵

Within this dynamism we also need to consider one important perception as described by Nash. He explains that, punishment can also create negative effects in the society when authority always chooses to control the behavior through punishment alone. It could happen that behavior pattern of people in the community may perhaps change to an undesirable level only to suit the prerequisites of punishments. In such situations when the external restraints of punishment are moved they affect the pattern of behavior of the people.¹⁶ Thus the objective of common good and peaceful society must seriously consider the need to educate the public to understand that improvement in moral behavior and moral choices must not be procured through fear and deterrence of punishment. It is the duty of every member of the society (not only the authority) to understand their responsibility in participating in the process of fighting violent activities in the state. To stand aloof of the culpability of others is a way of sharing in their guilt and allowing the vicious circle of offence and disorder to breed.

As the society seeks the common good, the justice system must see to it that, the infliction of punishment does not become severely intensified on transgressors of social order. Because, even though justice demands vindication of law, it becomes faulty when justice administered by the authority gives no space and respect to instruction, education, the possibility of healthy reformation of wrongdoers of the society. The courses of action, which put the blame exclusively on an offender as if his offences were the sole cause of wrongdoing, are equally ways of making unreal the separation of the human person from his surroundings.

¹⁴ Ibid, p. 527.

¹⁵ Thomas, Aquinas, *De Regimine Principum ad Regem Cypri et de Regimine Judaeorum ad Ducissan Bribantie: Politica Opuscula Duo*, Joseph Mathis, ed). (Torino: II rivista, Marietti, 1971), Book 1, Chap. 1.

¹⁶ Nash, *Authority and Freedom*, 118.

The entire human tradition regarding punitive justice sometimes tends to prevent recognition of social partnership in generating crime. No amount of guilt on the part of the offender absolves the society from responsibility for the consequence upon the offender and others of our way of treating him, as well as continuing responsibility for the conditions under which the human person develops perverse habits. For the society to understand the root cause of wrongdoing, it is important also to study and understand how societal conditions contribute to the formation of the human character. With this knowledge at hand we can do a lot to restructure and even minimize human tendencies towards wrongdoing and maintain what is expedient and sane for the community.

Aquinas believes that the human society backed by effective authority can modify the factors of human development and objective conditions which mold habits of people through a good scheme of justice and moral virtue. Justice comes with charity, so also punishment should always attach respect in treating offenders. If the premise that the guilt of an offender does not take away his dignity as human person is factual then part of the process of punishment for common good falls on authority and the human society in general to help or encourage offenders to reform and hope for change expressing mercy when it is needed.

The Argument for Capital Punishment

During the medieval era capital punishment was considered as highly important aspect of justice and social order just as today in some countries. In fact the strict mentality of social discipline considered as an unquestionable factor for peace and order reflects strongly in Aquinas' thoughts as depicted in the quotation below:

You shall not permit malefactor to live. And the Psalmist records that morning by morning I destroyed all the wicked in the land. Since every part is related to the whole precisely as imperfect to perfect, which is the reason why every part is naturally for the sake of the whole. If, therefore, the wellbeing of the whole body demands the amputation of a limb, say in the case where one limb is gangrenous and threatens to infect the others, the treatment to be commended is amputation. Now every individual person is as it were a part of the whole. Therefore if any man is dangerous to the community and is subverting it by some sin, the treatment to be commended is his execution in

order to preserve the common good, for a little leaven sours the whole lump.¹⁷

Medieval philosophers and theologians most especially Thomas Aquinas commendably agree that it is estimable to tolerate evil to a certain degree. But Aquinas in particular is also convinced that there is no need to put up with grave evil acts of obstinate offenders if they pose serious damage and danger to the society. Therefore, it can be deemed legitimate that horrendous offenders be exterminated. From his theological and probably philosophical perspective, Aquinas explains that God destroys sinners in order for the good to prevail. But God also sometimes gives sinners the possibility to live and repent; nonetheless these choices are made in view of the best interest of the common good.

Aquinas in relation to this opinion distinguishes two kinds of offenders, the first kind are those who are gravely dangerous to society classified as pernicious. Pernicious criminals as we all know have the habit of committing atrocious crimes against the society continuously. They live their lives like wicked pests sucking and consciously seeking to destroy order and common good. The second group of offenders are those whose crimes are not overly serious and do not cause grave disturbance to social order. For Aquinas, pernicious criminals have no right to live, because as they fall into great wickedness and become incurable as he states in *ST, IIa-IIae, q 25, art. 6*, there is no longer a place for friendly association with them.

As such both human and divine laws command that offenders of this kind be put to death. Deducing from what Aquinas is saying so far, we may be right to classify his concept of capital punishment as austere and apparently brutal. But from another point of view he never negates nor contradicts the fact that offenders are to be loved in totality. It is believed that offenders deserve help towards rehabilitation, as long as humanly speaking there is hope of change. However, the death of the offender becomes inevitable when he becomes as perverse as to drive

¹⁷ *ST, IIa-IIae, q. 64, a. 2*: ‘Sed contra maleficos non patieris vivere; et in Psal., in matutino interficiebam omnes peccatores terrae’...Corpus: ‘Omnis autem pars ordinatur ad totum ut imperfectum ad perfectum; et ideo omnis pars naturaliter est propter totum. Et propter hoc videmus quod si saluti totius corporis humani expediat praecisio alicujus membri, puta cum est putridum et corruptivum aliorum, laudabiliter et salubriter abscinditur. Quaelibet autem persona singularis comparatur ad totam communitatem sicut pars ad totum. Et ideo si aliquis homo sit periculosus communitati, et corruptivus ipsius propter aliquod peccatum, laudabiliter et salubriter occiditur, ut bonum commune conservetur’.

out hope for change and lapses into the helplessness of the beast - falling away from human dignity.

And so, the conclusion follows that in situation of hopelessness in criminals we will need to put into consideration first and foremost the importance of the common good over the concern for a single individual, who may then, but only then, be executed in sorrow than hate. As Aquinas explains, the perception surrounding this conviction is that the gift of freewill is essential; the power of the freewill is that which gives the human person the facility of making himself evil or good. Thus, when the person regrettably misuses his freewill he degrades the decorum of his personality placing himself below the degree of a beast.

As a result, most thinkers who are pro-capital punishment push aside the revocable and perpetual dignity of the human person and look at the secondary effects of the misuse of freedom and power that can deform or destroy order and common good of the society. The powerful undertone of this argument is that Aquinas and many other thinkers on this issue subordinate and sacrifice the individual's good for the good of the state to a certain degree. This is to indicate that the individual's right to life is valueless if we do not connect it with the collective good. When a single individual gravely offends, he puts the collective good in jeopardy and a threat to stability and peace in the society. Aquinas comments on this by saying:

As we have already noted, the killing of malefactors is legitimate in so far as it is ordered to the well-being of the whole community. And so this right belongs only to those who are charged with care of the whole community, just as it is the doctor who has been entrusted with the health of the whole body who may amputate a gangrenous limb. But the care of the community has been entrusted to the rulers who exercise public authority, and so it is only they, and not private persons, who may execute malefactor.¹⁸

Aquinas considers capital punishment as medicinal and legitimate when executed by authority. The medicinal value in punishment is that;

¹⁸ *ST*, IIa-IIae, q. 64, a. 3, corpus: 'Respondeo dicendum quod, sicut dictum est, occidere malefactorem licitum est in quantum ordinatur ad salutem totius communitatis, et ideo ad illum solum pertinet cui committitur cura communitatis conservandae; sicut ad medicum pertinet praecidere membrum putridum, quando ei commissa fuerit cura salutis totius corporis. Cura autem communis boni commissa est principibus habentibus publicam auctoritatem; et ideo eis solum licet malefactores occidere, non autem privatis personis'.

‘in its therapeutic value, punishment heals defection in three ways; the cure of the fault (*defectus*) of the one being punished, the fault in the order of justice in the civil society, and also a medicine for the deterrence of others from wrongdoing by witnessing the punishment of a criminal’.¹⁹ To support this argument, the philosopher makes an important analogy as regards to capital punishment and authority. He explained that the role of the surgeons in health matters is to practice the sole power and function invested in them based on experience and knowledge. This role is to give good health to the body by amputating a gangrenous limb if it poses danger to the rest of the body. The surgeon doing the amputation does not choose to do evil that good may come rather he foresees the danger of lethal infection and as a result causes the loss of the limb. The loss of the limb is bad in so far as it is a part of the body that makes the person complete. But the amputation that causes immediate damage and future loss is no more evil than a bad source of lethal infection that can eventually destroy the whole body.²⁰

Thus, for the pro-capital punishment thinkers, the act of punishment aspires towards the preservation of healthiness of the society. A pernicious criminal has to receive the appropriate penalty, which will render him unable to inflict further harm or the possibility to injure or infect others. As the doctor remains the sole person entrusted with the health of the body it is in the same way that the community has entrusted to authority the right and power to procure sanity of life and peace in the society. And, most importantly to make sure to punish malefactors who intend to disrupt order and common good.

However, the justification of capital punishment has its own shortfalls and as a result has gone under a lot of criticisms and scrutiny in modern and contemporary times. For example, Aquinas’ justification of state absolutism on this matter can be seen as flawed. It can be argued that the state is not absolute relative to the individual, nor do individuals live exclusively for the sake of the common good. If we establish this fact, then we can also say that common good must rather be instrumental to the individual’s interest since the human person does not merely exist for the whole. It is interesting to notice that the person has the

¹⁹ Christian Brugger, *Capital Punishment and Roman Catholic Tradition* (Indiana: University of Notre Dame, 2003), 109-110.

²⁰ Finnis, *Aquinas*, 279-280.

universality in himself, and should be cared for not only for the sake of something else, but also according to what befits him as individual.

Aquinas holds that the good of the individual is analogous to the good of the whole. Yet, when he comes to the question of death penalty, he maintains that the human person is only part relative to the whole. Thus, to kill a man whose human dignity is intact is intrinsically wrong, but if he loses his human dignity it is no more evil. The problem with this argument is that it poses the question: does human dignity refer to the intrinsic goodness of the human persons *qua* human persons? If it is the unified and active subject constituted by a material body and a rational soul, then the rational cannot be lost through wrong doing neither can one's dignity.

Consequently, human authority possesses the power to make laws and punish but it must simply exclude lethal punishment as a legitimate expression of power. However, it may also seem highly unreasonable replacing the death penalty with lengthy prisons terms for society's most serious offenders where conditions are negligently inhumane. Such situations of imprisonment might express greater disrespect of the human dignity than that expressed in capital punishment.

Punishment: Relevance and Importance

Punishment is relevant and fits perfectly within the socio-political framework of order. Socio-political order has the right to command good deeds, the prohibition of evil ones, the permission of indifferent acts, and the punishment of criminals. Sanctions and punishment within the society will always be necessary since in every society there are many who cannot be induced to live in peace and aspire towards common good unless subjected or forced to do so. Thus, if coercion does not help then deprivation of the person's 'goods of life' such as bodily safety, freedom, and then the external goods of riches, country, and one's good name be implemented. By the fear of losing these things the state can influence a person who in no other way could be directed towards common good of the society. The importance of the political framework in place in the society is not solely to instill peace and common good but to take important steps all the time to act within a particular scope of which punishment can be implemented.

‘It is indeed the task of the state within its limited jurisdiction to vindicate the transcendent moral principle that defines the common good.’²¹ The state attains power through the rule of law and the rule of law has the power to reward and to punish. This function becomes endorsed when it is ordained towards common good and to discourage wrongdoing. As Aquinas states; law, even by punishing, leads men on to being good. It serves the common good to attend to the wrongdoer’s well-being. It also promotes the moral health of others by providing a kind of pedagogical ‘drama’ of justice. As Finnis describes; ‘there is the need of almost every member of society to be taught the requirement of the law, what the common paths for pursuing the common good actually are; and taught not by sermons or pages of fine print, but by the public and relatively vivid drama of the apprehension, trial, and punishment of those who depart from that stipulated common way’.²² Punishment must always be retributive and at the same time medicinal, both directed towards the common good. In the same way too, just as Bourke states; ‘good order is always necessary in a civil society, and also the proper organization and functioning of a community working for a commonly shared goal is what must be maintained by just punishment’.²³

Conclusion

Every human being has an end to which his whole life and all his actions are ordered; because the person is an intelligent agent, and it is clearly the part of an intelligent agent to act in view of an end. The human person also adopts different methods in proceeding towards his proposed end, as the diversity of his pursuit and actions clearly indicates. In trying to achieve this, the person will also need some directive principle to guide him. “This is called the light of reason, which is placed by nature in every man, to guide him in acts towards his end. Wherefore, if man were intended to live alone, not seeking common good as animals do, he would require no other guide to his end. Each man would be a king upon himself... Yet, it is natural for man, more than for any other animal, to be social and political animal, to live in a

²¹ Steven Long, “Evangelium Vitae, St. Thomas Aquinas and the Death Penalty,” *The Thomist* 63 (1999), 523.

²² John Finnis, *Natural Law and Natural Rights* (Oxford: Oxford University Press, 2011), 89ff.

²³ Vernon Bourke, “Justice as Equitable Reciprocity,” *American Journal of Jurisprudence*, 27 (1982), 18.

group” ,²⁴ for the purpose of this common end there will always be a necessity of a common guide.

In *De Regno*, Aquinas explains that to attain this common end, there will always be the need of common action of rational beings possessing a common adherence to a common rule of action. If there is no unison in practical judgment, unity of action is destroyed and this impedes the obtaining of the common good. Furthermore unanimity is important for the assurance of unity of action, which in effect results into the submission of one practical judgment and a study principle. It is based on this principle explained extensively that makes obedience to rule of law and authority not made to cause hindrance to freedom and happiness, but necessary for the coordination, harmony, and continual growth of individuals. The rule of law is meant to check human assertiveness, so that good citizens of the state can be safeguarded from those who indulge in the tendency to do harm or commit crime. So also, punishment in general helps shape the overarching culture and contributes to the generation and the degeneration of its terms. It is a set of signifying practices that teaches, clarifies, dramatizes and authoritatively enacts some of the most basic moral-political categories and distinctions which help shape our world. It must live in the culture through its pedagogical effects. It must teach us how to think about important aspects like intentions, responsibility, and injury, and it is to help mold the socially appropriate ways of responding to offences committed.²⁵

Dr. Lawrence Boakye

Dept. for the Study of Religions
University of Ghana, Legon
(lboakye@ug.edu.gh)

²⁴ *De Regno*, Book 1, Chapter 1.

²⁵ Austine Sarat, ed., *The Killing State: Capital Punishment in Law, Politics, and Culture* (New York: Oxford University Press, 1999), 9-10.