

10-2004

Review of Capital Punishment and Roman Catholic Moral Tradition, by E. Christian Brugger

Thomas L. Schubeck S.J.
John Carroll University, tschubeck@jcu.edu

Follow this and additional works at: http://collected.jcu.edu/theo_rels-facpub

 Part of the [Religious Thought, Theology and Philosophy of Religion Commons](#)

Recommended Citation

Schubeck, Thomas L. S.J., "Review of Capital Punishment and Roman Catholic Moral Tradition, by E. Christian Brugger" (2004).
Theology & Religious Studies. 66.
http://collected.jcu.edu/theo_rels-facpub/66

This Book Review is brought to you for free and open access by Carroll Collected. It has been accepted for inclusion in Theology & Religious Studies by an authorized administrator of Carroll Collected. For more information, please contact connell@jcu.edu.

Capital Punishment and Roman Catholic Moral Tradition. By E. Christian Brugger. Notre Dame, University of Notre Dame Press, 2003. 281 pp. \$50.00

Has the Roman Catholic Church changed its mind on the death penalty? Brugger, assistant professor of ethics at Loyola University of New Orleans, contends that it has. He begins by analyzing pertinent sections of the *Catechism of the Catholic Church* (1997) and of Pope John Paul II's encyclical letters, *Evangelium Vitae* (1995) and *Veritatis Splendor* (1993). From these documents, he infers that the 1997 *Catechism*, in sharp contrast to the 1566 *Roman Catechism*, teaches that capital punishment is not an exception to the fifth commandment, "You shall not kill." Whereas the sixteenth-century *Catechism* taught that the death penalty could be inflicted in order to redress wrongdoing (retributive justice), the new *Catechism*, supported by the two encyclical letters, eliminates retribution as a justification for the death penalty and limits state execution to instances where it is absolutely necessary to protect the community's safety. Such instances, the *Catechism* asserts, "are very rare, if not practically non-existent" (§2267). Brugger argues that the dignity of the human person provides the anthropological basis for suppressing retribution as a justification for capital punishment.

To support his contention that the magisterium has developed its teaching in opposition to capital punishment, the author examines certain texts in both the Old and the New Testaments. He gives central focus to Paul's Letter to the Romans (13:1-7)—especially to the verse, "for the authority does not bear the sword in vain" (13:4b)—arguing correctly that most contemporary biblical scholars interpret the meaning of "sword" as a metaphor for the state's coercive authority and not specifically for capital punishment. His historical analysis includes a clear interpretation of influential Christian thinkers (Augustine, Pope Innocent III, and Thomas Aquinas), as well as important texts (Gratian's *Decretals* [c. 1140], papal writings). Brugger's interpretations of both Scripture and tradition are objective and insightful. His survey reveals a gradual increase in Christian participation in exacting the death penalty, moving from no Christian participation (pre-Constantinian period), to lay Christian participation (post-Constantinian period), to participation by both clergy and laity (sixteenth and seventeenth centuries).

Brugger shows how many arguments coalesce into one doctrine aimed at justifying capital punishment, based principally on theories of retribution and community safety. Moreover, he demonstrates in great detail that the doctrine was never infallibly taught and calls it "non-irreformable" teaching. He concludes by stating his normative position that "[society's] refraining from deliberately killing serious offenders is an expression of commitment to the fundamental dignity of the human person."

He systematizes his position in the final chapter by entering into a creative dialogue with Thomas Aquinas, whose defense of capital punishment has carried the most authority in the Catholic tradition. Brugger offers an excellent critique of Aquinas's arguments. Aquinas, for example, reasons that by sinning (committing murder) a person departs from the order of reason and thereby falls away from human dignity. Hence, the judge may justifiably condemn this individual sinner to death, not out of hatred, but out of charity for the community. Brugger gently probes Aquinas's understanding of "human nature," pointing out that Aquinas elsewhere claims that rational human nature and being loved by God confer dignity on a person. Brugger rightly points out that, since neither of these gifts is lost because of sin, human beings do not lose their inherent dignity by committing a crime. Therefore, murderers should not be treated as beasts that can be sacrificed without remorse, as Aquinas argues.

Capital Punishment and Roman Catholic Moral Tradition is highly recommended for those who want to delve into arguments underlying the Roman Catholic Church's shift on this issue. Because of its careful textual analysis of Scripture, church documents, and theological arguments, this book is not an easy read. Critics may challenge Brugger's contention that the 1997 *Catechism*,

while not explicitly stating that capital punishment is intrinsically wrong, nonetheless presents premises that imply this. Brugger ends by venturing beyond capital punishment to argue that killing in war must be based on a paradigm of self-defense. Faithful to his principle that we should not intentionally kill human beings, he argues that measures of violence "must not include at any level the deaths per se of the enemy." Yet fighting defensively in war without directly intending the death of the attacking enemy seems unreal. Perhaps the author may address in his next volume how his principle of excluding intentional harm to humans modifies some of the principles of the just war.

Thomas L. Schubeck
John Carroll University Cleveland, OH