



Double Effect: Catholic Teaching on the Death Penalty

America's system of law is known for being based on legal precedent – that is, it is a system of law that evolves based upon inviolable principles – principles that must function together cohesively without contradiction. This is a system our country inherited from Old English common law; however, long before England established this system of law, the Catholic Church has operated under a system of precedent of its own. People say God can do anything – specifically, God can do anything EXCEPT contradict Himself.

The Church has carried this rule of non-contradiction for close to 2000 years. Our shepherds, through apostolic succession, have taken the divinely-inspired writings of the Bible and the sacred tradition started by Christ and the Apostles, and safeguarded and used these truths to apply to the various situations they encountered in our world. Through the precedent set by scripture and tradition, the Church is able to determine which acts are moral and immoral.

In light of this rule of non-contradiction, it is only natural for some confusion to arise regarding the Church's history with capital punishment. Today the Catholic Church preaches that the death penalty is inadmissible; but we know that in the past, the Church has allowed executions to occur within the Papal States. One executioner in particular, Giovanni Battista Bugatti, served as papal executioner for six popes during the 18th and 19th centuries, and executed over 500 felons. Before the Papal States conducted its final execution in 1870, Blessed Pope Pius IX himself responded to a prisoner's request for clemency, saying that he could not grant clemency, and that carrying out the execution was a necessity. If we truly have a system of precedent and non-contradiction, how can we reconcile Pope Pius' words with current dogma?

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“[T]he death penalty is inadmissible because it is an attack on the inviolability and dignity of the person” – *Catechism of the Catholic Church*, no. 2267

In order to do so, we need to understand the purpose of the death penalty in Catholic morality. The fifth commandment says thou shalt not kill; however, if we kill a would-be murderer in self-defense, that is not a sinful act. This is because of the principle of double effect. If an act produces a double effect, part good and part bad, it is morally permissible if certain criteria are met. First, the action itself must be morally good. In the previous example, the action would be to stop an assailant from committing murder. Second, you must not desire the negative consequence, and if you can produce a good result without any negative consequence, you should. Incapacitating an attacker is preferable if it's possible, but if killing your attacker is the only way to stop him or her, then it is morally permissible. And third, the good effect must be as immediate as the negative effect – because as the two effects become more distant in time from one another, the more likely it is that we are committing two separate acts, one good and one bad, rather than one action that has a double effect.

Within the past 150 years, various popes have made statements regarding the death penalty, each time referencing the death penalty in terms of necessity. In 1901, Pope Leo XIII said the death penalty was “both necessary and efficacious.” In 1908, Saint Pius X said “it is necessary to kill when fighting in a just war... and likewise, to carry out a sentence of death in punishment of a crime.”

When we see a shift in church teaching on the death penalty in the later half of the 20th century, we see more of this “necessary” language. Saint John Paul II wrote that execution is only appropriate “in cases of absolute necessity, in other words, when it would not be possible otherwise to defend society without the execution.” Pope Benedict XVI encouraged countries to reconcile keeping public order and safety with dignified treatment of prisoners, and that the death penalty is only permissible in situations where no other option is viable. This is the same view espoused by Pope Francis and the 2018 *Catechism of the Catholic Church*. So, what happened in the middle of the 20th century for the popes to have such different views?

In the past century, our society has overseen the largest acceleration of affluence, technology, and standards that humanity has ever experienced in such a short timeframe. In 1910, less than 2 percent of the United States had electrical power, and now virtually every American adult has a portable phone, television, and mailbox all wrapped in a single device. With these advancements came improvements to our ability to protect victims of crime and in the effectiveness of our incarceration system. We are able to more securely contain criminals than ever before in history. And this is where the question of double effect and the death penalty’s “necessity” come into play.

Executions per year, 1977-2023



Source: Death Penalty Information Center

Since the U.S Supreme Court reinstated the death penalty in 1976, there have been 1564 executions nationwide, 95 of them in Missouri.

One-fourth of the executions in the U.S. in 2023 occurred in Missouri.



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Many will say that the death penalty is necessary to act as deterrence from more murders occurring later. Certainly, if you execute a murderer, he or she is not going to murder again. However, if you incarcerate a murderer for the rest of his or her life with no possibility of release, then he or she ALSO won't murder anyone ever again. Through the principle of double effect, you can kill an attacker in self-defense, and commit no moral wrong. However, the principle of double effect cannot apply to the executions performed in most of the developed world today because the criminals eligible for the death penalty are already incarcerated for life and unable to reoffend. As a result, the "good effect" (the criminal's incapacitation) has already occurred, leaving only the "bad effect" of the execution occurring years after the criminal has already been living a sentence of life without parole. We, as Catholics, are called to follow the path of producing as few negative consequences as possible. Because modern societies have developed more effective detention systems, the less negative consequence of life without parole is not only viable – it is morally obligatory.

"The death penalty cannot be employed for a purported state justice, since it does not constitute a deterrent nor render justice to victims, but only fuels the thirst for vengeance,"
- Pope Francis, January 9, 2023

This understanding of the death penalty's moral impermissibility is also the basis for how the American justice system has evaluated capital punishment. American courts have noted how the meteoric rise in affluence and resources in the United States has affected what is perceived as morally permissible, and this phenomenon is commonly referred to as "evolving standards of decency." The court of *Trop v. Dulles* (1958) ruled evolving standards of decency played a key role in determining whether a criminal punishment violates the 8th Amendment's "cruel and unusual punishment" clause – ultimately resulting in the *Furman v. Georgia* ruling that ended the death penalty in the United States for a brief time. Even after the death penalty was reinstituted on a state by state basis, 23 states have decided to bar the death penalty within their borders, and additional states have informally suspended capital punishment via statute. More states have determined the moral impermissibility of the death penalty, which has led to only 11 states carrying out death sentences within the past decade – Missouri being one of them.

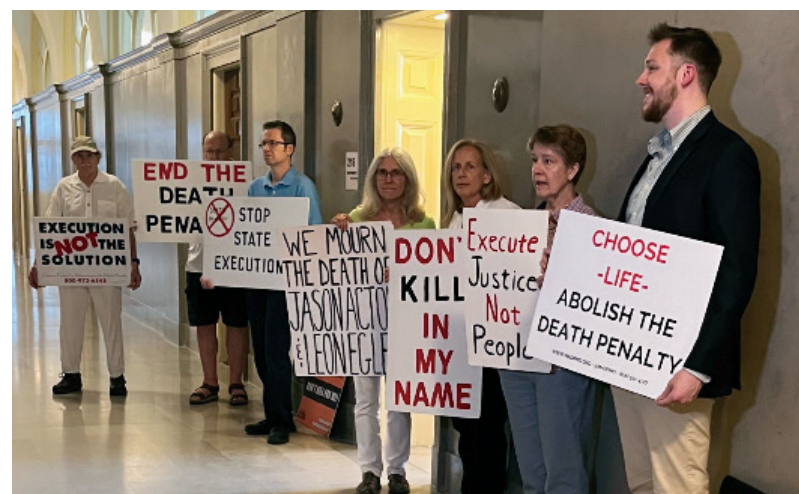
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So far in 2023, 15 inmates have been executed in the United States, three of which have occurred in Missouri. Missouri's fourth execution, scheduled for August 1, would mean 25% of America's executions this year have taken place in Missouri, giving the state the highest per capita rate of execution in the country.

Though various bills to limit the death penalty are presented in the Missouri legislature every session, it is rare for any of these bills to gain traction, let alone be passed into law. Missouri has a long road to tread before the death penalty is eliminated, which makes it all the more important for Catholics to promote mercy in the criminal justice system.

Each time a prisoner in Missouri is set to be executed, the Missouri Bishops, through the Missouri Catholic Conference, send a letter to the governor requesting clemency on behalf of the prisoner. We also organize a vigil outside the governor's office on the day of an execution, where advocates hold signs and request mercy through peaceful protest.

Proponents of the death penalty often justify the use of the death penalty by claiming it is something the convicted murderer "deserves" to receive; however, even assuming this statement is correct, is that truly the way we as Christians want punishment to be exacted? Do we as sinners strictly *deserve* God's sanctifying grace, or is it an act of mercy God exercises upon us? No action of our own can merit sanctifying grace; it is instead a gift from God that we only receive because He gives it freely – we need only accept it through faith and good works. Regardless of whether one can independently determine a prisoner "deserves" execution in a draconian sense, is it not better to emulate God's mercy when choosing whether a prisoner receives either execution or life without parole? Murder is described by the bible as a "sin that cries out to heaven for vengeance." Given the gravity of these sins, it's all the more important that, whenever possible, we give murderers as much time as possible to amend their ways and repent for their sins in the remaining time they have on this earth.



Prayer to End the Use of the Death Penalty

Merciful Father, we ask your blessing on all we do to build a culture of life. Hear our prayers for those impacted by the death penalty.

We pray for all people, that their lives and dignity as children of a loving God may be respected and protected in all stages and circumstances.

We pray for victims of violence and their families, that they may experience our love and support and find comfort in your compassion and in the promise of eternal life.

We pray for those on death row, that their lives may be spared, that the innocent may be freed and that the guilty may come to acknowledge their faults and seek reconciliation with you.

We pray for the families of those who are facing execution, that they may be comforted by your love and compassion.

We pray for civic leaders, that they may commit themselves to respecting every human life and ending the use of the death penalty in our land.

Compassionate Father, give us wisdom and hearts filled with your love. Guide us as we work to end the use of the death penalty and to build a society that truly chooses life in all situations.

We ask this Father through your Son Jesus Christ who lives and reigns with the Holy Spirit, one God forever and ever.

Amen



Bishop Edward Rice, Bishop of the Diocese of Springfield-Cape Girardeau, and MCC lobbyist Curt Wichmer discuss the history of the Catholic teaching on the death penalty and how the principle of double effect interacts with capital punishment's validity, in this episode of MCC from the Capitol.

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