

(pp. 45, 107). It is doubtful whether the Friars Minor Conventual share the author's view that John XXII's constitution *Cum inter nonnullos* was a triumph for them in 1322 (p. 18). This quarrel led to the detention and eventual deposition of the minister general, Michael of Cesena, in 1328. There is some overlapping material in the four chapters and repetitions, notably on the authenticity of the letter to St Anthony of Padua (pp. 16, 84). Although some subsequent amendments were made to the first chapter, the author has not brought his bibliography up-to-date and the reader is left with references which were available in the 1970s and early 1980s (pp. 149, 155, nn. 7, 97). In the intervening quarter of a century the Messaggero Press in Padua has published the critical editions of the lives of Saint Anthony by Fr Vergilio Gamboso, OFM Conv. in six volumes. I have not been able to obtain a copy of *Saint François d'Assise* and remain unsure whether responsibility for Thomas of Spalato (pp. 56, 118, 149) and Sarum (p. 122) instead of Split and Salisbury lies with the author or the translator. There are some unfortunate translations, such as Humiliates for Humiliati (pp. 9, 10, 32, 40, 59), ministry general for minister general (p. 18), education for edification (p. 49) and speech for sermon (p. 100). There is some inconsistency over the name of the bishop of Assisi; Guy occurs twice and Guido once (pp. 31, 33, 35). The occasional typographical errors produce Ruffino for Rufino, largess for largesse, and happed for happened (pp. 21, 24, 39).

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CAPITAL PUNISHMENT AND THE ROMAN CATHOLIC MORAL TRADITION by E. Christian Brugger, *University of Notre Dame Press, Indiana, 2003, Pp. x + 281, \$50.00 hbk.*

Aquinas taught that though the fifth commandment was exceptionless (*indispensabile*) it did not forbid all killing – only what was not “due” (*debitum*). Killing is due *for* an offence which is of a kind to deprive the offender of his dignity and *from* someone acting on behalf of a just order subverted by the offence in question. Thus, Abraham, representing the divine order, rightly tried to deal Isaac the death due to us all for Adam's sin, and a judge can rightly order death in accordance with just laws upholding the common good, to which the good of the individual is subordinate.

Christian Brugger objects to the idea that the good of a man is subordinate to that of the human community, as a limb is to that of the body. Brugger belongs to the ethical school founded by Germain Grisez, and thinks that all intentional killing of men is intrinsically

evil. However, Grisez and Brugger are not pacifists: a general of their persuasion would say he was not trying to kill the opposing forces, just to stop them: the deaths were accidental.

By this stretching of Aquinas's ideas about self-defence and double effect, the Grisez school deal with a large part of the fact, frankly admitted by Brugger, that the Church has never taught that all intentional killing is wrong. There remains capital punishment: if Aquinas, and the tradition as borne out by what Brugger calls the "plain-face" reading of the new Catechism, are right, then the Grisez philosophy falls seriously to the ground. For he teaches that any direct attack on one of the fundamental human goods is intrinsically evil. Brugger argues for this in the last chapter: up to there, he mostly considers Catholic texts with a view to showing that it is not inconsistent with Catholic belief to hold this opinion about attacks on "the good of life".

He argues that the Catechism, by teaching that it is more consonant with human dignity to have no unnecessary capital punishment, points to a teaching which would recognise the intrinsic evil of killing. Also, the topic of capital punishment is placed under the heading "legitimate defence", suggesting to him that the right of the state to kill should be subsumed under the double-effect "legitimate defence" of his philosophy. (However, the 1997 *editio typica* of the Catechism to which he appeals insists that the *responsibility* of the punished be determined, which is not necessary in cases of "legitimate defence".)

The Catechism follows Aquinas in trying to define voluntary homicide so as to render the fifth commandment an exceptionless rule: Brugger calls this "distancing itself from Catholic tradition". Given that God ordered killing in the Old Testament; that all ages have united in seeing in St Paul (Rm 13: 1–7) an argument for the right of the state to kill; that the Fathers of the Church assumed this right; that Innocent III formally declared that the secular power could exercise it without mortal sin; that the Catechism of Pius V reiterated the doctrine; and that modern documents continue to assert it – all of which facts he admits – it is clear that Brugger at least wishes to distance himself from tradition. His chapter on development defends his desire to do this. He strictly applies Vatican II criteria for infallibility, as though these (or any) rules provided the only means by which a doctrine could be certainly identified as Catholic teaching. By showing a doctrine not to have met the criteria for infallibility, one does not necessarily put it in doubt, but Brugger says that if the teaching has been taught non-infallibly, the question *in principle* remains open. But if the present Pope, despite his clear opposition to capital punishment, still is obliged to endorse the state's traditional right, it is seen that this right is too much a part of Catholic tradition for it to be possible to jettison it.

In his final chapter, Brugger inverts the argument which sees suicide as self-murder, and argues that if, as Aquinas says, suicide is contrary to the charity we owe ourselves, killing other people must be contrary to the charity we owe them. He does not see the relevance of the premise that everything naturally resists what destroys it, so that to kill oneself is contrary to natural inclination. But an act is specified by its object, and the reflexive “oneself” is ineliminable from the specification “preserve oneself” or “kill oneself”. So there is in suicide a direct opposition to life as an end, and this is why it is contrary to natural law and hence to charity. It is *the* direct attack on life as an end, or basic good.

To say this is contrary to the fundamental Grisez position, that the basic goods should not be attacked in oneself *or* in another. But love of one’s neighbour in this matter means wanting him not to kill himself – not because Jones would be killing *Jones* but because he would be killing *himself*. This is why it is more upsetting when Jones kills Jones than when Smith does.

Brugger’s criticism of Aquinas on the relation of the individual to the community is interesting, but his discussion of the idea that sin takes away human dignity is spoilt by his failure to distinguish between the question of whether one deserves a punishment, and the question whether a human society can prudently and equitably impose it as a penalty. We are born deserving death for the sin of Adam; no human government could rightly impose this penalty. We mostly deserve death for mortal sin; an equitable and prudent system of laws would only impose it where necessary. Brugger calls this “arbitrary”.

He defends Grisez’s doctrine about fundamental goods, and on intentional killing (and on when it *is* intentional) and calls for prison reform. He speaks of the “questionable hypothesis that God grants to some to do what is otherwise forbidden by the natural law”. He does not address the problem of whether, when God ordered killing, the killing ceased to be intrinsically evil, and how. If he is not a Marcionite, he has to be able to answer this question, as Aquinas did.

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VIOLENCE IN GOD’S NAME: RELIGION IN AN AGE OF CONFLICT by Oliver McTernan, *Darton Longman and Todd*, London, 2003, Pp. 192, 10.95 pbk.

Oliver McTernan’s three years at Harvard University’s Centre for International Affairs, have, on the evidence of this interesting book, been well spent. It filled me in large part with admiration, in small part with irritation. Because it does both it will certainly become a