

THE ABOLITION CLASSICS

COLLECTED EDITION VOL. I

ORIGINS

BUDDHA, ASHOKA, AUGUSTINE, MORE &
THE ANCIENT ARGUMENT

250 BCE–1631



EDITED AND MODERNIZED BY

JEFF HOOD

THE ABOLITION CLASSICS

The texts that built the case against the death penalty

ORIGINS

250 BCE – 1631

OMNIBUS I

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250 BCE – 1631

Socrates · Before Abolitionism · Lactantius

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COMPLICIT PRESS

2026

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Complicit Press · North Little Rock, Arkansas · complicitpress.org

THE ABOLITION CLASSICS

OMNIBUS I

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FOREWORD

*It is always unlawful to put to death a man, whom God willed to be
a sacred animal.
— LACTANTIUS*

Everybody starts the story in 1764. That is the year Beccaria published, and the year the textbooks hand you as the beginning of the argument against the gallows. This omnibus exists because that date is a lie of omission — not a large one, not a malicious one, but a lie that has cost us something. Eighteen centuries do not pass in silence. People were saying it the whole time. We just never bothered to keep the receipts.

Here are the receipts.

WHAT THE ANCIENT WORLD ALREADY KNEW

The three books gathered here span nearly two thousand years, from a courtroom in Athens in 399 BCE to a Jesuit's notebook in the German witch-burning country in 1631. They come out of at least six religious traditions and four languages. They were written by a philosopher on trial for his life, by monks and emperors and rabbis and bishops and popes, by a Bohemian peasant theologian, by an English lord chancellor, by a Savoyard schoolmaster in exile, and by a priest who buried the women he had walked to the fire. None of these people knew what the others had written. That is the whole point.

The argument does not develop across these pages. It recurs. It gets made, cleanly and completely, by someone who has no idea it has ever been made before, and then it disappears, and then somebody else makes it again three hundred years later in a different language on a different continent for a different reason. The Jain sūtras say no living thing may be killed and carve out no exception for the guilty. Aśoka cuts three days of grace for the condemned into a pillar of stone and the pillar is still standing. A rabbi in Roman Palestine says that had he sat on the court, no one would ever have

been put to death. Augustine writes to a judge and begs him not to execute the men who murdered his own priests. A pope writes to a warlord and tells him to stop killing, and to stop torturing, and gives reasons. Thomas More builds a whole imaginary country to make the point that a state which hangs thieves has admitted it would rather kill a man than fix the conditions that made him one. Castellio says the sentence that should have ended the whole business: to kill a man is not to defend a doctrine, it is to kill a man. Spee, who had the worst assignment in this book, says that he is a man and can be deceived, and that the machinery he was made to serve produced confessions the way a press produces oil.

Nothing accumulated. That is what I cannot get past. Not the cruelty of the period — the isolation of the objection. Each of these people was alone. Each of them thought they were the first to notice.

THE TRIAL THAT STARTED IT

The Apology opens this omnibus because it is the only text in the entire series spoken by the condemned. Everything else in these five volumes is written by someone standing outside the room, looking in. Socrates is inside. He is seventy years old, he is on trial for asking questions, and five hundred of his fellow citizens vote to kill him by a show of hands. Not a tyrant. Not an occupying army. A vote. The most democratic procedure the ancient world had produced, used to poison an old man for irritating the powerful.

I have been in rooms where the same arithmetic was performed with better manners. The vote takes longer now. It gets spread out across a jury, a judge, a governor, a clemency board, a court of appeals, a solicitor general, and finally a phone that does or does not ring. Distributing the decision across that many hands is how a modern state gets the thing done without anyone in particular having killed anybody. Athens at least had the honesty to raise its hands in public.

And Socrates does the thing I have watched men do thirteen times: he refuses to beg. He will not bring his children into court to weep for the jury. He will not perform the contrition that would save him. He tells them

that the unexamined life is not worth living and that he is not going to purchase a few more years by pretending otherwise. Every man I have accompanied to an execution chamber has faced some version of that choice — the pressure to become, in the last weeks, whatever the state needed him to be. Some took it. Some did not. The ones who did not were doing what Socrates did, and they were doing it without Plato taking notes.

THE SACRED ANIMAL

Then Lactantius, writing around 304, while Diocletian is burning churches and executing Christians across the empire, sets down the most absolute sentence in the early church: it is always unlawful to put to death a man, whom God willed to be a sacred animal.

Always. Not usually. Not except in the hard cases. And he extends it where nobody wanted it extended — to the prosecutor, to the accuser, to the spectator. It makes no difference, he says, whether you kill with a sword or with words in a courtroom. To bring the capital charge is to participate in the killing. To watch it is to be implicated in it.

I have never found a cleaner statement of what this work is actually about. Complicity is the whole subject. The needle is pushed by one person. The killing is done by thousands: the legislature that wrote the statute, the prosecutor who sought it, the jurors who signed it, the judge who read it, the appellate clerks who found it harmless, the pharmacist who compounded it, the chaplain who blessed it, and the public that would rather not hear the details. Lactantius saw the architecture of that in the fourth century and named every floor of it.

WHY THIS BOOK EXISTS

These three volumes are the ground the rest of the series stands on. When Beccaria argues in 1764 that the state cannot take a right it was never given, he is making More's argument. When Rush argues in 1792 that scripture does not command the gallows, he is making the argument the Mishnah made and Nicholas made and Chelčický made. When a lawyer in 2026 argues that an irreversible punishment cannot be entrusted to a fallible process, that is Spee, word for word, from a night in Würzburg when he

was the only person in the building who thought the confessions might be wrong.

We have not been arguing this for two hundred and sixty years. We have been arguing it for two thousand three hundred. The gallows is the innovation. The objection is the tradition.

Read these three books and you will not be able to hear the phrase *we have always done it this way* again without laughing, or without something worse than laughing.

Rev. Dr. Jeff Hood
North Little Rock, Arkansas
2026

EDITOR'S NOTE

The three volumes gathered in this omnibus were published separately in The Abolition Classics as V. 1, V. 0 and V. 2. They are arranged here in the order in which a reader new to the series should meet them, which is not quite the order of the calendar and not at all the order of the volume numbers.

THE ORDER

The Apology comes first because it is the earliest complete text in the series and because it establishes the position from which everything else is written: the condemned person is a person, with an argument, and the argument does not stop being an argument because a court has decided to kill the man making it.

Before Abolitionism comes second. It is an anthology, and its ten selections run from the Jain and Buddhist canon in the third century before Christ to Friedrich Spee's *Cautio Criminalis* of 1631 — which means it opens before the Apology's neighbors and closes twelve hundred years after Lactantius. It could not have been broken up and distributed by date without destroying it, because its argument is the accumulation itself: eight chapters, ten witnesses, no contact between them.

Lactantius comes third, out of strict date order, because he is best read as the Christian answer to the world that killed Socrates. He is writing in an empire that is executing his own people, and he refuses to hand that empire a doctrine that would let it do the same to somebody else once the tables turned. That is the hinge on which the Christian portion of this argument swings, and it is worth arriving at slowly.

THE THREAD BETWEEN THESE BOOKS

Four things run through all three.

The killing is done by a procedure, not a monster. Athens votes. Rome legislates. The Inquisition documents. Every text here is about a system

with paperwork, and every author is trying to say that the paperwork does not distribute the guilt thin enough to disappear.

The condemned man is a man. The Jain canon says every living thing wants to live. Lactantius says the human being is a sacred animal. More says the thief was made by the theft of the commons. Castellio says killing a man does not defend a doctrine, it kills a man. This is one sentence, said five ways, over eighteen centuries.

Scripture is being used as cover, and it does not cover. The Mishnah reads the Mosaic code so narrowly that a court which executes once in seventy years is called destructive. Nicholas I tells the Bulgars to stop. Chelčický reads the Sermon on the Mount and finds no scaffold in it. When Rush and O'Sullivan and Spear reopen this question in the nineteenth century, they will be walking ground already cleared here.

Error is permanent. Spee's *Cautio Criminalis* is the first document in this series built entirely on the possibility of wrongful execution, and he did not reason his way to it. He was there. He heard the confessions come out of the torture room. Everything Romilly, Dickens and O'Sullivan will later say about the irremediability of error is already in Spee, written by a man who had walked innocent women to the fire and could not stop hearing them.

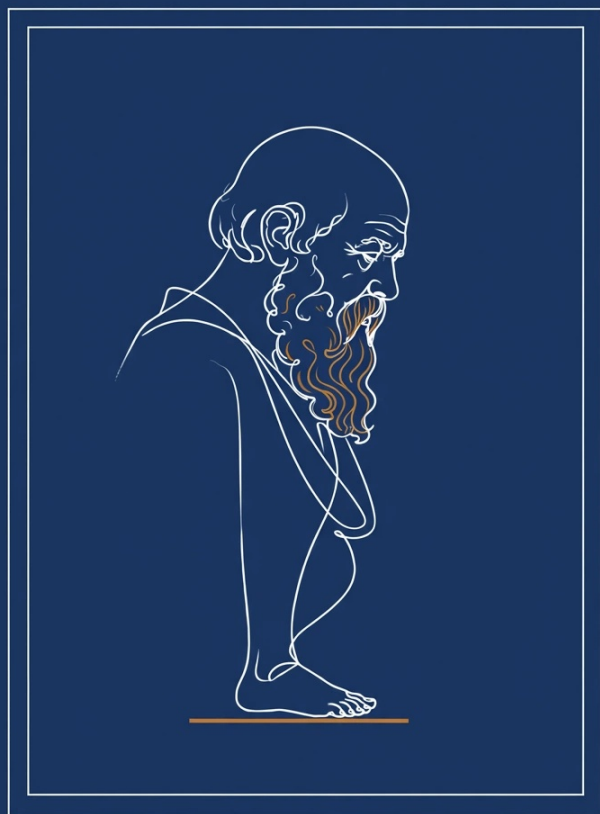
THE TEXTS

Each of the three volumes retains the front matter, notes and apparatus of its own edition — its foreword, its editor's note, its definitions and its further reading. Sources and translations are documented on the copyright page of each. Where the underlying work existed only in a copyrighted modern translation, a fresh translation was made from the public-domain original: the Latin of Nicholas I, Castellio and Spee was translated for this series, and the Mishnah passage was newly rendered. Nothing in these volumes rests on a text the reader cannot go and verify.

A note on what is not here. The pre-modern record contains a great deal of qualified objection — arguments for mercy in this case, for restraint in that instance, for sparing the young or the pregnant or the noble. Almost

none of it is here. The selections in this omnibus are the ones that go all the way: that say the thing itself is wrong, not that it is being applied too freely. The distinction matters. It is the difference between reform and abolition, and it is the line this whole series is drawn along.

THE ABOLITION CLASSICS. V. 1



THE APOLOGY

Socrates

AS RELATED BY PLATO

EDITED AND MODERNIZED BY

JEFF HOOD

THE APOLOGY

S O C R A T E S

As Related by Plato

Edited and Modernized by
J E F F H O O D

T H E A B O L I T I O N C L A S S I C S
V . 1

The texts that built the case against the death penalty

C O M P L I C I T P R E S S

This edition © 2026 Complicit Press

Editorial matter and modernization © 2026 Jeff Hood

Original text: Plato, Apology, c. 399–387 BCE.

This edition newly set and modernized from the Jowett translation.

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Printed in the United States of America

First edition

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FOREWORD

Socrates was tried for his life in 399 BCE. The charges were impiety and corrupting the youth. He was convicted by a jury of five hundred Athenian citizens. He was executed by hemlock. He was seventy years old. He had not, as far as anyone could tell, committed any crime.

I keep coming back to the simplicity of those facts. Socrates was killed by a democratically administered legal process for the crime of asking too many questions and making powerful people uncomfortable. The mechanism that killed him was not a tyrant's decree or a military execution. It was a vote. Five hundred people looked at a seventy-year-old man who had spent his life serving his city and decided he should die. That is not an aberration in the history of capital punishment. It is one of its clearest illustrations.

What makes the *Apology* unique in the literature of this series is that it is the condemned person's own voice — or as close to it as we can get. Socrates did not write the *Apology*. Plato wrote it, probably within a decade of the trial, drawing on what he witnessed. But the voice is Socrates's voice: arguing, questioning, refusing to beg, declining to compromise his position to save his life. Every other text in this series is written by someone looking at capital punishment from the outside. The *Apology* is written from the inside, by the person about to be put to death, addressed to the people who are about to do it.

I have spent years accompanying people in exactly this position. The condemned person who maintains their dignity in the face of the state's power to kill them is not an unusual phenomenon. I have seen it. The person who insists, even on the day of execution, that the truth matters more than their survival — that is a real thing that happens. Socrates did not invent this. He exemplified it with unusual clarity, and Plato recorded it with unusual skill, and together they have given us something that remains, twenty-four centuries later, the most powerful single document in the literature of resistance to the state's claim to take a life.

The Apology belongs in this series because it is the founding document of the tradition that every other book in the series belongs to. Lactantius knew Socrates. Beccaria knew Socrates. Rush knew Socrates. Nearly every philosopher and legal reformer who has argued against capital punishment has argued in a tradition that begins here, with a man standing before a court and saying: you can kill me, but you cannot make me wrong.

Socrates's final words in the Apology are these: the hour of departure has arrived, and we go our ways — I to die, and you to live. Which is better, God only knows. He did not know whether death was a good or an evil. What he knew was that injustice was certainly an evil, and that submitting to it to preserve his life would have required him to become something other than what he was. He chose not to. I find that choice worth understanding in 2026, when the courts of the United States continue to sentence people to death, and when the question of who those people are — and whether the process that kills them is just — remains as urgent as it was in Athens in 399 BCE.

Rev. Dr. Jeff Hood
North Little Rock, Arkansas
 2026

A NOTE ON THIS EDITION

Socrates (470–399 BCE)

Socrates was an Athenian philosopher who wrote nothing. Everything we know about him comes from others — primarily from the dialogues of Plato, from the writings of Xenophon, and from the comic caricature in Aristophanes's *Clouds*. He was the son of a stonemason and a midwife; he was ugly, by ancient accounts, with a flat nose and protruding eyes; he went barefoot, neglected his family's finances, and spent his days in the marketplace of Athens questioning anyone who claimed to possess knowledge or wisdom. He was a veteran of the Athenian army, having distinguished himself at three battles. He served once as a senator. He refused a command from the Thirty Tyrants that would have made him complicit in a murder. He had three sons and a wife named Xanthippe, who appears briefly in the *Phaedo* on the day of his death.

His method was conversation. He did not lecture or write treatises. He walked around Athens and asked questions — specifically, questions designed to reveal that people who thought they possessed knowledge did not. This method made him famous and made him enemies. The famous and the powerful found it intolerable to be shown, in public, that they did not know what they thought they knew. By the time of his trial he was seventy years old and had accumulated enemies across every class

of Athenian society: politicians, poets, and craftsmen had all felt the sting of his questioning.

The trial took place in 399 BCE, during a period of political instability following Athens's defeat in the Peloponnesian War and the brief and brutal rule of the Thirty Tyrants. The charges — impiety and corrupting the youth — were broad enough to be shaped by political resentment. Three accusers brought the indictment: Meletus, a poet; Anytus, a politician and businessman; and Lycon, a rhetorician. Socrates was convicted by a vote of 280 to 220. He was then sentenced to death after refusing to propose a serious alternative penalty — by a wider margin than the conviction, according to Diogenes Laertius, though Plato gives no figure. He was executed by being required to drink hemlock.

The Apology

The Apology is divided into three parts. The first is the defense proper — Socrates's response to the charges, including his famous account of the Delphic oracle, his cross-examination of his accuser Meletus, and his refusal to abandon his philosophical mission even to save his life. The second part is his address to the jury after the guilty verdict, in which he proposes a counter-penalty with characteristic irony. The third is his final address, divided between those who voted to condemn him and those who would have spared him, ending with the meditation on death that concludes the text.

Whether the Apology reproduces what Socrates actually said at the trial is a question that cannot be answered. Plato was present. He almost certainly remembered the substance of what was said and the spirit in which it was said. But the Apology is also a literary composition of great skill, and Plato was a literary artist of the first rank. The text we have is Plato's Socrates, not simply

Socrates — which is to say, it is probably as close to Socrates as we are ever going to get.

The translation used as the basis for this modernization is Benjamin Jowett's, first published in 1871. Jowett's Plato defined the English reception of the dialogues for generations and remains one of the most readable versions available. The present edition updates Jowett's Victorian prose into contemporary language, reorganizes the text into titled sections for clarity, and provides editorial context for the historical and philosophical background that the original audience would have possessed.

The Modernization

This edition presents the full argument of the *Apology* in condensed modern English. No argument has been omitted and no position softened. Socrates's irony, his refusal to conciliate, his absolute insistence on the priority of virtue over survival, and his final meditations on the nature of death are all preserved. What has been condensed is repetition and local detail: where Plato's Socrates names a dozen men in the courtroom or circles an argument three times, this edition names fewer and circles once. Nothing that carries weight has been left out. The chapter divisions are editorial, intended to make the argument's structure visible to a contemporary reader who may not already know the text. The dialogic exchange with Meletus is set out as dialogue rather than continuous prose, to make the cross-examination easier to follow.

The relevance of the *Apology* to this series is not merely historical. Socrates articulates, in the course of his defense, several arguments that recur in every subsequent abolitionist text: that killing a person does not eliminate the truth they represent; that the state's claim to administer justice is subject to moral limits it does not set; that the fear of death is not a reason to abandon

what is right; and that the harm done to the condemned by an unjust execution is less than the harm done to those who carry it out. These arguments are here for the first time. They will recur in Lactantius, in Beccaria, in Rush, in Romilly, and in every other voice in this series.

The Series

The Abolition Classics is published by Complicit Press to make the texts that built the case against the death penalty available in contemporary language. *The Apology* stands at the beginning of that tradition.

*“The difficulty, my friends, is not to avoid death, but to avoid
unrighteousness; for that runs faster than death.”*

— Socrates, The Apology, 399 BCE

THE APOLOGY OF
SOCRATES

I. In My Own Words

How you, men of Athens, have been affected by my accusers I cannot tell. But I know that they almost made me forget who I was — so persuasively did they speak. And yet they have hardly uttered a word of truth. Among all their falsehoods, one in particular amazed me: when they warned you to be on your guard against the force of my eloquence. To say this, when they were certain to be found out the moment I opened my mouth, appeared to me most brazen — unless by eloquence they mean the force of truth. If that is what they mean, I will admit to it. But they have scarcely spoken the truth at all. From me you will hear the whole truth — though not delivered in the polished manner of a trained advocate, with words carefully arranged for effect. You will hear the words that occur to me as I speak, because I am confident in the justice of my cause. At my age, I ought not to be appearing before you as a juvenile orator. Let no one expect that of me.

I ask only this: if I speak in the way I have always spoken — in the marketplace, at the tables of the money-changers, in the streets of this city — do not be surprised and do not interrupt me on that account. I am more than seventy years old, and this is the first time I have appeared in a court of law. I am a stranger to the language of this place. Consider me, then, as a foreigner speaking in his native tongue. Never mind the manner of it; attend only to whether what I say is true. That is the single obligation of the speaker and the judge alike: to speak truly, and to decide justly.

II. The Old Accusers

I must address two sets of accusers. There are my recent accusers — Meletus, Anytus, and Lycon, who have brought this formal charge. But there are also older accusers, far more dangerous, who began working against me when you were children. They took possession of your minds with their falsehoods: that there is a man named Socrates, a wise man, who speculates about the heavens, searches into the earth, and makes the worse argument appear the better. Those who heard this when young came to believe it, and the belief hardened before there was any opportunity to challenge it. These accusers are the most dangerous of all, because I cannot name them, I cannot cross-examine them, and I must fight shadows.

The old charge can be summarized from the comedy of Aristophanes, who put a man called Socrates on stage, walking through the air and talking nonsense about natural philosophy. That is not me. I have nothing to do with physical speculation — not because I despise it, but because I know nothing about it. You can ask anyone here who has ever heard me speak. They will tell you I never hold forth on such matters.

Nor am I a paid teacher. Though, I will say, if a man were genuinely able to instruct people in virtue, he would deserve to be paid very well indeed. I once put the question to Callias, who has spent more money on teachers than any man in Athens. Callias, I said, if your two sons were foals or calves, we would have no trouble finding someone to take charge of them — a horse-trainer

or a farmer, someone who could bring out the excellence proper to the animal. But they are men. Who is it that understands the excellence proper to a man and a citizen? There is such a person, he said: Evenus of Paros, and his charge is five minas. Happy Evenus, I thought, if he really possesses such wisdom and parts with it so cheaply. I would be very proud if I could say the same. But I cannot. I have no such knowledge to offer.

III. What the Oracle Meant

You may wonder, then, where all this suspicion and hostility comes from. I will tell you. It comes from a mission that was laid upon me by the god himself. The story begins with my friend Chaerephon, who went to Delphi and asked the oracle whether anyone in the world was wiser than Socrates. The oracle answered: no one.

When I heard this, I was baffled. What can the god mean? I know that I have no wisdom, small or great. And yet a god cannot lie. After long consideration, I decided to test the answer. I would go and find someone who was genuinely wiser than I was, and bring him as a living refutation to the oracle. I would say: here is someone wiser than Socrates; you were wrong.

So I went to a politician who had a great reputation for wisdom. I talked with him. When I examined him, I found that he was not wise, though he thought himself wise and was thought wise by many others. I tried to show him this. He hated me for it, and so did several who were present. I left thinking: well, neither of us knows anything genuinely beautiful and good, but I am better off than he is, because he knows nothing and thinks he does, while I know nothing and know it.

Then I went to the poets. I expected them to be wiser. But when I asked them to explain what they had written, I found that almost anyone in the room could have spoken about their poetry more intelligently than they could themselves. They compose not from wisdom but from inspiration — like oracles, who say many

fine things without understanding what they mean. And on the strength of their inspiration they imagined themselves wise about everything else as well. I left them too.

Finally I went to the craftsmen. Here at least I found genuine knowledge: they knew things I did not know, and that much I was ready to grant them. But they made the same mistake as the poets. Because they were skilled at their craft, they thought themselves wise about great matters too. And that one defect outweighed their genuine knowledge.

This is the conclusion I drew from my investigation: God only is wise, and by the oracle's answer he means to say that human wisdom is worth little or nothing. He is not speaking of Socrates in particular; he is using my name as an example: as if to say, the wisest among you is the one who, like Socrates, knows that his wisdom amounts to nothing. This is my mission. I go about the world in obedience to this oracle, examining anyone who appears to be wise. When I find he is not wise, I show him that he is not. This occupation has consumed my life. It has left me in poverty. And it has made me enemies in every quarter.

IV. The Cross-Examination of Meletus

Now I turn to the formal accusers. Meletus, who is present, has charged me with corrupting the youth and not believing in the gods of the city. Since he is here and can be questioned, I will question him.

He steps forward. I ask him:

Meletus, you care a great deal about the improvement of the young? Yes? Then tell me: who improves them? You have taken the trouble to discover who corrupts them, and have brought that person into court. Who, then, is their improver?

Silence. He has no ready answer.

Speak up, Meletus. Is it the laws? But that's not what I asked. I want to know the person. Who is it?

The judges, says Meletus. They improve the youth.

What, all of them? And the audience here — do they improve the youth?

Yes, says Meletus. All of them.

And the senators? And the members of the assembly?

Yes, yes. They all improve them.

So everyone in Athens improves the young — everyone except me, and I alone corrupt them? Is that what you are saying?

That is exactly what I am saying.

What extraordinary good fortune for the young people of Athens. Consider: with horses, the opposite is true. Only a few people — the trained horse-handlers — do them good. Everyone else does them harm. Are you really suggesting that with human beings, every single Athenian citizen improves the young, and only I corrupt them? You have just shown this court that you never gave the young a moment's thought in your life. You do not care about the very thing you have hauled me here to answer for.

Now let me ask you something else.

Is it better to live among good citizens or bad ones? Answer me. Do the good not benefit the people around them, and the bad harm them?

Of course.

And is there anyone alive who would rather be harmed by the people he lives among than helped by them?

No one.

Then when you say I corrupt the young, do you say I do it deliberately, or without meaning to?

Deliberately.

Look at what you have just claimed. You say the bad harm those closest to them. You say no one prefers to be harmed. And you say I deliberately make the people I have to live among worse — knowing that they will then be in a position to harm me. Nobody will ever believe that. So either I do not corrupt them at all, or I corrupt them without meaning to, and on either reading your charge fails. If the harm is unintentional, the law does not bring a man to court for it. You should have taken me aside and told me. Had I understood, I would have stopped. Instead you never

spoke a word to me in private, and you have brought me to a place that exists to punish rather than to instruct.

Now the second part of the charge: that I do not believe in the gods of the city, but introduce new divine beings.

What do you mean exactly, Meletus? That I believe in some gods but different ones? Or none at all?

None at all. You are a complete atheist.

What an extraordinary claim. Do you mean that I deny even the existence of the sun and moon, as other men acknowledge them?

He says the sun is stone and the moon is earth.

Meletus, you are confusing me with Anaxagoras. Those doctrines fill his books. They turn up on the stage often enough as well, and the price of admission is a drachma at most. The young men of Athens can pay their money and laugh at me if I pretend such ideas are my own. Surely you do not think this court so illiterate as not to know where they come from.

Here is the contradiction I want the court to see. Meletus has charged me with atheism. But his own indictment says I introduce new divine beings. So let me put it plainly. Did any man ever believe in horsemanship without believing in horses? Or in flute-playing without flute-players? No one ever has. The activity presupposes the practitioner. Then can a man believe in divine activities and not believe in divinities — in spirits, in demigods? He cannot. And what are demigods? They are either gods themselves or the children of gods. You might as well grant the existence of mules while denying that there are horses and asses. So by Meletus's own indictment I believe in divine beings; divine beings are gods or the children of gods; therefore I believe in gods. He has constructed a riddle, and not a very good one. He wrote it because he had nothing real to accuse me of.

V. Why I Will Not Leave My Post

I have said enough about Meletus. The greater danger to me is not him but the accumulated resentment of the many people whose pretended wisdom I have exposed over the years. That is what will destroy me if I am destroyed — not any specific charge, but the envy and hostility of a world that does not like to be examined.

Someone will say: Are you not ashamed, Socrates, of a way of life that is about to get you killed? To that I answer: a good man does not calculate whether he will live or die. He asks only whether what he is doing is right or wrong. Consider Achilles, who knew that if he killed Hector he would die, and killed him anyway, because he thought it dishonorable to do otherwise. The question was not survival but integrity.

I have been placed at my post by God. I remained at my post at Potidaea and Amphipolis and Delium when the generals placed me there. Shall I now abandon my post because I am afraid to die? That would be the worst kind of hypocrisy. The fear of death is itself a kind of ignorance — a pretense of knowing what is unknown. No one knows whether death is a good or an evil. I do know that injustice and disobedience to a higher authority is an evil. I will not avoid a possible good to escape a certain wrong.

If you were to say to me: Socrates, we will let you go, but only if you stop this philosophical questioning — I would answer: I honor and love you, men of Athens, but I will obey God rather

than you. While I have life and strength I will not cease from the practice of philosophy. I will continue to examine you and everyone I meet, asking: are you not ashamed of piling up wealth and reputation while giving so little thought to wisdom, truth, and the state of your soul? And if anyone claims to care about virtue but cannot show it under examination, I will say so. This is the command of God. I believe no greater good has ever been done to this city than this service.

Do not interrupt me. Hear me to the end, because what I have left to say may be the most useful thing you hear today. If you kill a man like me, you will injure yourselves far more than you will injure me. Meletus cannot harm me. Neither can Anytus. Neither of them has the power, because I do not believe a worse man is permitted to harm a better one. Anytus may kill me, or drive me into exile, or strip me of my rights as a citizen, and he may well believe he is doing me a great injury. Many of you may believe it too. I do not. The far greater evil is the one he is doing now — taking a life unjustly. That evil stays with the man who does it.

VI. The Gadfly and the City

I am not arguing for my own sake now but for yours. If you kill me, you will not easily find a successor. I am, to use a somewhat absurd image, a gadfly given to the state by God. The state is like a large and noble horse — thoroughbred, proud, powerful, but slow to stir because of its very size. I am the gadfly that keeps it moving: fastening on you, arousing you, persuading you, reproaching you, all day and in every place. You will not easily find another like me. And if you kill me, you may sleep undisturbed for the rest of your lives, unless God in his care for you sends another gadfly.

You may wonder why, if I have this mission from God, I have never entered public life. The answer is the divine sign — the inward voice that has guided me since childhood. This sign always dissuades and never commands. It has kept me out of politics, and rightly so. If I had tried to fight for justice in public life, against the many unjust things that are done in the governance of any city, I would have been killed long ago and done no good to anyone. A man who is seriously committed to justice must work in private, not in public, if he wants to survive even briefly.

Let me give you evidence in the form of action, not words. I served once as a senator. When you wished to try the generals who had failed to recover the bodies of the slain after the battle of Arginusae — a trial I believed to be illegal — I was the only member of the presiding committee who voted against it. The orators threatened to impeach me. The crowd shouted at me. I held

my position anyway, preferring to stand with the law rather than assist in an injustice out of fear of imprisonment or death.

And under the Thirty Tyrants, when they sent for me and four others and ordered us to go to Salamis and bring back Leon so that he could be executed, I simply went home. The others went to Salamis. I went home. If the tyranny had not soon come to an end, that refusal might have cost me my life. But there was nothing else to do. I was not going to be made complicit in murder by the mere force of a government's arm.

VII. On Not Begging

I have said nearly all I have to say. Let me add this: I will not do what you are accustomed to see from defendants in capital cases. I will not weep. I will not bring my children before you to move you to pity. I will not produce a parade of relations and friends to vouch for my good character. I am not made of wood or stone, as Homer says, and I have a family — three sons, one nearly grown — but I will not use them as instruments to secure your mercy.

Why not? Not from arrogance. Not because I lack respect for you. But because such scenes bring discredit on the city and on the man who performs them. A man who has reached my years, and who has any reputation for wisdom or virtue, ought not to behave as though death were some unspeakable horror that must be escaped at any cost. I have seen men of great reputation in this city, when convicted, behave as though they were about to suffer the worst conceivable fate — weeping and wailing as if they could make themselves immortal by it. That is dishonor to them and to us.

There is also a matter of principle. You have sworn an oath to decide justly. If I persuade you by weeping and begging rather than by giving you the truth, I am asking you to break that oath. I cannot do that. I am on trial for impiety. It would be a strange kind of defense to commit an act of impiety in the course of making it. And to you and to God I commit my cause, to be determined as is best for you and for me.

ON NOT BEGGING

He is convicted.

VIII. After the Verdict: On Penalty

There are many reasons why I am not particularly distressed by this verdict. I expected it. What surprises me is how close the vote was. If thirty votes had gone the other way, I would have been acquitted. And I believe I have escaped Meletus entirely: without Anytus and Lycon behind him, he would not have received a fifth part of the votes, and would have incurred a fine of a thousand drachmae under the law.

Now Meletus proposes death as the penalty. What shall I propose? What is my due? I am a man who has never had the wit to be idle, who has ignored wealth and family interests and political ambition, and has spent his life going about privately exhorting every citizen he met to put virtue and wisdom before money and reputation. What is the fitting return for such a person?

I will tell you what I think is fitting: maintenance at public expense in the Prytaneum. That is the honor given to Olympic victors — men who give you the appearance of success and happiness. I have tried to give you the reality of it. The Olympic victor needs nothing; I need support. If I am to estimate what I honestly deserve, that is my answer.

I understand this sounds like provocation. It is not meant as such. I am convinced that I have never intentionally wronged anyone. I cannot convince you of it in the time I have been given — but if Athens had the law that other cities have, that a capital case may not be decided in a single day, I believe I could have. Great

slanders are not refuted in an afternoon. And since I am convinced I have never wronged another, I will not now wrong myself by proposing a penalty as though I had. Should I propose imprisonment? Why should I live as the slave of whichever magistrates hold office that year? Exile? I would be driven out of every city I went to, as the young men would flock to me and their fathers would object. Should I hold my tongue in exchange for release? But the unexamined life is not worth living, and daily discourse about virtue is the greatest good available to a human being. I cannot propose that I give it up.

What I can propose is a fine. I have very little money — perhaps a mina is within my means. But my friends Plato, Crito, Critobulus, and Apollodorus urge me to propose thirty minas, and they will stand surety for it. Very well: thirty minas. They will be adequate security.

He is condemned to death.

IX. To Those Who Voted to Kill Me

I speak now only to those who have voted for my death. You will gain nothing of substance from killing me. You will gain a reputation, and not a good one: other people will say that you killed Socrates, the wise man — and they will call me wise even if I am not, simply to reproach you. If you had waited, nature would have done the work for you soon enough. I am old. Death was not far.

You think I was convicted because I lacked the right words. That is not the reason. I was convicted because I lacked the boldness — the impudence — to address you in the way you have come to expect: weeping and wailing and saying things unworthy of me. I chose to die having spoken as I am rather than to live having spoken as you would have preferred. In battle, a man can often save his life by throwing down his weapons and falling on his knees before the enemy. He survives. But I was not willing to do the equivalent of that here. The difficulty is not to avoid death but to avoid unrighteousness. Unrighteousness runs faster than death. You, who are younger and quicker, have been overtaken by it. I, who am old and slow, have only been overtaken by death.

I prophesy to you who have condemned me: immediately after my departure, you will face consequences far heavier than you have inflicted on me. You killed me to avoid being examined. But that is not how it will work. There will be more examiners after I am gone, not fewer — and they will be younger than I was, and less restrained. If you think that killing people is a way of avoid-

ing the necessity of giving an account of your lives, you are mistaken. That is neither possible nor honorable. The only way of escape that works is not to disable others but to improve yourself.

X. To Those Who Would Have Spared Me

And now I speak to those of you who voted to acquit me. I want to tell you something remarkable. Throughout this trial, from the moment I left my house this morning until this very moment, the divine sign — the inward voice that has guided my life — never once opposed me. It has often stopped me in mid-sentence before now, over trifles. Today, in the most serious moment of my life, it was silent. What do I make of that?

I take it as a sign that what has happened to me is good — and that those who think death is an evil are mistaken. For consider: death is one of two things. Either it is a state of complete unconsciousness, like a dreamless sleep — in which case, who would not prefer it to most of the nights and days of an ordinary life? If death is that kind of sleep, eternity is nothing but a single night, and it would be a genuine gain. Or death is a journey to another place, where the dead are gathered together.

If that second possibility is true, think of what it means. I would arrive in a world where there are judges who actually judge justly — unlike some we have seen today. I could speak with Orpheus and Musaeus, with Hesiod and Homer. I could sit down with Palamedes and with Ajax the son of Telamon, and with every other man who died under an unjust judgment, and set what was done to them beside what has been done to me. What a conversation that would be. Best of all, I could go on doing there exactly what I have done here: examining people, finding out who is wise and who only pretends to be. And in that other world,

at least, they do not put a man to death for asking questions. They are immortal there, and cannot.

No evil can happen to a good man, either in life or after death. I am not angry with those who condemned me or with my accusers. They have done me no harm, though they intended none of the good they might have done. For that I will gently reproach them, and no more.

I have one last request. When my sons are grown, trouble them as I have troubled you, if they seem to care about money more than virtue, or if they pretend to be something when they are nothing. Reproach them as I have reproached you, for not caring about what they ought to care about, and thinking themselves something when they are really nothing. If you do this, I will have received justice from you, and so will they.

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The hour of departure has arrived, and we go our ways — I to die, and you to live. Which is better, God only knows.

SOCRATES AND THE MODERN SOCRATES ON DEATH ROW

Between the verdict and the execution of Socrates there were thirty days, because the annual sacred ship to Delos was at sea and executions were suspended for the duration of the voyage. He spent those thirty days in a cell near the Agora. He could have escaped — his friends arranged it. He refused. He did not refuse because he thought the verdict was just; he says plainly in the *Apology* that it was not. He refused because he would not answer injustice with injustice, and because he would not break the agreement he had made with the laws of Athens by living under them his whole life. What he was also sure of was that the life he could have lived as a fugitive — old, poor, driven from city to city, unable to do the work that had given his life its meaning — was not a life he wanted. He drank the hemlock at sunset, talking to his friends about the soul.

The men and women on death row in the United States today did not choose to be there. They were placed there by a legal process that functions, in many of its most important respects, the way the Athenian process that placed Socrates there functioned. The similarities are not decorative. They are structural, and they are worth examining with care, because the examination reveals something important about what capital punishment is and what it does to the people it touches.

The Charges

Socrates was charged with two things: impiety and corrupting the youth. Both charges were true in the sense that he had done the things they described, and false in the sense that those things were not crimes. He had challenged the gods of the city — not by denying that gods existed but by refusing to subordinate his pursuit of truth to the requirements of official religion. He had influenced the young men of Athens — not by teaching them anything in particular but by modeling a way of living that made them skeptical of authority and uncomfortable with received wisdom. These are not crimes. They are the consequences of taking philosophy seriously. But they had made powerful people angry, and in Athens in 399 BCE, powerful people could channel their anger into a legal process that ended with hemlock.

The charges against people on death row in the United States today are, on their face, more straightforward: murder. But the legal category of capital murder is not simply a description of what someone did. It is a determination, made by prosecutors with enormous discretionary power, that this killing — among all the killings in this county, in this year, by this category of person — is the one that deserves death. That determination is shaped by factors that have nothing to do with the gravity of the offense: the race of the victim, the county where the crime occurred, the quality of the defense attorney, the political climate of the moment. Studies have consistently shown that the single most powerful predictor of whether a capital charge is sought and obtained is the race of the victim — killings of white victims are far more likely to result in death sentences than equivalent killings of Black victims. The charge of capital murder, like the charge of impiety in Athens, reflects the distribution of power in the society that brings it as much as it reflects the nature of the act.

The Process

Socrates was given a single day to defend himself before five hundred jurors. He had no lawyer. He could not call witnesses in the modern sense. The verdict came at the end of the day, by majority vote. The penalty phase followed immediately: each side proposed a penalty, and the jury chose. There was no appeal. There was no mechanism for reviewing the verdict after the fact, no procedure for presenting new evidence if it came to light, no institution whose function was to catch errors before they became irreversible. Socrates was convicted, sentenced, and dead within a month. The machine was efficient.

The American capital process is, on paper, the opposite: elaborate, extended, multiply reviewed. A person sentenced to death can spend a decade or two decades on death row while their case moves through state courts, federal courts, habeas corpus petitions, and clemency proceedings. The average time between sentence and execution in the United States now runs past twenty years, and the people executed in 2025 had spent an average of twenty-four years under sentence of death. This is not a sign of the system's thoroughness so much as a sign of its awareness that it makes mistakes. The appeals process is long because experience has demonstrated, repeatedly, that the original verdict is not always right.

Since 1973, more than two hundred people have been exonerated from death row in the United States — people who were convicted of capital offenses by procedures the system considered adequate, sentenced to death by juries the system considered competent, and later found, by DNA evidence or witness recantation or newly discovered facts, to have been wrongly condemned. We know these names because they were exonerated before the execution took place. We do not know how many

names belong to the other category: those who were executed before the error was found, or before anyone thought to look. Socrates was not wrong. He was only the first.

The Waiting

The thirty days that Socrates spent in his cell after the verdict are what the *Crito* is about: his friends coming to visit, urging him to escape, arguing about justice and the law, and finally sitting with him on the last day while he talked and drank the hemlock and died. Plato renders the waiting period as philosophically productive — Socrates uses it to work out his thoughts about law, about the soul, about what death might be. He is calm. He is present. He is more himself in those thirty days than most people manage to be in a lifetime.

The waiting period on American death row now runs past twenty years on average, and it is not philosophically productive in the way Plato describes. It is one of the most psychologically brutal forms of punishment that any government inflicts on anyone anywhere. The condemned person knows they have been scheduled to die. They do not know when. The date may be set and then stayed by a court at the last hour. The date may be set, not stayed, and then another date set when a method-of-execution challenge delays the process. The execution may be scheduled, begun, and then stopped when a vein cannot be found. The condemned person lives inside this machinery for years, sometimes decades, with no reliable knowledge of when the end will come or whether any given appeal will succeed. This is not an accidental feature of the system. It is the system. And its psychological effects have been documented extensively. Clinicians and courts have given the pattern a name — death row syndrome — for the severe anxiety, depression, cognitive deterioration and, in some cases, psychosis that extended confinement under these

conditions produces. It is not a formal diagnosis, and no one has established how many of the condemned it reaches. What has been established is that these conditions produce it.

Socrates had thirty days. He had his friends with him. He had his mind. He had the ability to move about, to converse, to write nothing but think everything. What he shares with the men and women on death row today is not the external conditions of his confinement but the fundamental existential situation: the knowledge that the state has decided you will die, and the question of what to do with yourself between now and when that happens.

The Dignity

The most striking thing about Socrates in the *Apology* is not his arguments. It is his refusal to perform. He will not weep. He will not bring his children to the court to move the jury. He will not propose a serious counter-penalty because he does not believe he deserves punishment at all. He maintains, from the first word to the last, an absolute consistency between what he believes and how he behaves. The verdict does not change him. The sentence does not change him. He is, at the end of the trial, exactly what he was at the beginning: a man who thinks that the examined life is the only life worth living and who intends to keep living it for as long as he is alive.

I have met that person on death row. Not often, but I have met them. The man who has been there long enough to have stopped pretending, who has worked out what he actually believes and is no longer performing anything for anyone. The woman who has found, in the narrow confines of a cell and a visitation schedule and a limited library, something she would call understanding — not peace exactly, but a kind of clarity about what matters and what does not. The person who has been so thoroughly stripped

of everything that the social world uses to tell you who you are that they have had to find out for themselves. There is a specific quality to conversations with such people that I cannot quite describe except to say that it resembles, in its directness and its absence of pretense, what I imagine a conversation with Socrates must have felt like.

Socrates says that the unexamined life is not worth living. He says this specifically in the context of the trial — it is the reason he cannot propose silence as a counter-penalty. If he cannot examine his life and the lives of those around him, the thing that remains is not worth preserving. This is a philosophical claim, but it is also a claim about the conditions of human dignity: that dignity requires the capacity for self-reflection, for the kind of honest examination of one's own life that he has been practicing and encouraging for a lifetime.

The conditions of death row are designed, whether intentionally or by structural necessity, to make this examination as difficult as possible. Solitary or near-solitary confinement, limited access to education and reading materials, restricted movement, the constant surveillance that makes genuine privacy nearly impossible, the psychological pressure of the waiting: all of these work against the Socratic project of the examined life. And yet the examination happens anyway, in some people, under these conditions. I have witnessed it. Plato bore witness to it in Athens in 399 BCE. The human capacity for self-examination is more durable than the conditions designed to suppress it.

The Accusers

Socrates identifies two categories of accusers: the formal accusers who have brought the specific charges, and the older, more dangerous accusers — the accumulated public opinion, the ambient hostility, the slander that has circulated for decades before

any specific charge was ever filed. The formal accusers, he says, are almost manageable: he can cross-examine Meletus, expose his contradictions, make him look foolish. What he cannot fight is the prejudice that has settled into the minds of the jurors over a lifetime, before he ever had a chance to respond.

The person accused of a capital crime in America today faces the same two categories. There is the formal accusation: the indictment, the witnesses, the forensic evidence, the prosecutor's theory of the case. These can be challenged in court, by a defense attorney who has the time and resources to challenge them. But there is also the older, more dangerous accusation: the accumulated weight of a society's beliefs about who commits violence, who is dangerous, who is capable of the worst things. In the United States in 2026, that weight falls with particular force on Black men, on the poor, on those who have already had contact with the criminal justice system, on those whose neighborhoods and circumstances have made them legible to juries as the kind of person who does this kind of thing. Socrates could not refute the preexisting image of him that Aristophanes had put in people's minds before the trial began. The defendant at a capital trial cannot refute the preexisting image that a lifetime of racial and class prejudice has placed in the minds of the jurors who will decide whether they live or die.

The Sentence

Socrates is convicted. He is asked to propose a counter-penalty. He suggests, with characteristic irony, that what he deserves is maintenance at public expense in the Prytaneum — the honor given to Olympic heroes. He knows the jury will not accept this. He eventually, under pressure from his friends, proposes a fine of thirty minas. The jury, given the choice between death and a nominal fine, votes for death — by a wider margin than the one

that convicted him, our later sources say. The leniency of his counter-proposal is read as contempt, and perhaps it is. He has been consistent to the end: he will not pretend to believe he deserves punishment.

The penalty phase of an American capital trial is often where the most consequential failures of justice occur. Jurors who have just convicted are asked to decide between life and death, often on the basis of evidence about the defendant's background, character, and circumstances that was not admissible at the guilt phase. The mitigating evidence that might argue for life — histories of abuse, intellectual disability, mental illness, trauma, poverty — is supposed to be presented by the defense. But capital defense attorneys in many jurisdictions are drastically underfunded, overworked, and undertrained. The mitigation investigation that could save a life requires time and money that many capital defenders simply do not have. The sentence of death is, in many cases, as much a verdict on the quality of the legal representation as it is a verdict on the nature of the crime.

After the death sentence is imposed, the question that Socrates asked himself in his cell becomes the question that every condemned person must answer for themselves: what do you do with the time between now and then? Socrates's answer was: exactly what I have always done. Talk. Think. Examine. Question. Be what I have been. For the people I have met on death row, the answers vary, but the question is the same, and the fact that they are asking it at all — that they are trying, under conditions of extreme duress and radical confinement, to figure out what it means to be a human being and how to be one — is itself a kind of Socratic activity.

The Final Words

Socrates addresses the jury in two groups at the end: those who voted to kill him, and those who would have spared him. To those who voted to kill him, he says: you have done this to avoid being examined. It will not work. There will be more examiners after me, younger and less restrained, and you will be more offended by them than you have been by me. To those who would have spared him, he says: do not be afraid. Death is either a dreamless sleep, which is a gain, or a journey to another place, which is an adventure. No evil can happen to a good man either in life or after death.

I have heard last words. Not many, but some. The last words of condemned people in the United States are recorded and often published, because the execution protocol in most states includes a moment for the condemned person to speak before the killing begins. Some people use this moment to assert their innocence. Some use it to express love for their families. Some use it to apologize to the victims' families, or to forgive their own. Some say nothing. A few say something unexpected and strange and precise, something that cuts through the bureaucratic horror of the occasion and reminds everyone present that a human being is dying here, a person with a history and a consciousness and an interior life that the state has decided to extinguish. Those moments are among the most Socratic things I have encountered: a person, facing death at the hands of the state, trying to say something true before the end.

Socrates's last words, in Plato's telling, come at the end of the *Phaedo*, spoken to his friend Crito rather than to the jury. He had been given the hemlock and was dying. His final recorded words were a reminder to make a sacrifice to Asclepius — the god of healing — because he owed one. He died paying a debt. He died, as he had lived, attending to what he actually owed and to nothing else.

The final words of the condemned in America today are not about debts to gods. They are about love and regret and the particular clarity that comes when there is nothing left to protect or perform. They are, sometimes, about innocence: I did not do this. They are, sometimes, about the system itself: I forgive the people who are doing this to me, but I do not believe this is right. They are, sometimes, simply a name — a child's name, a mother's name, repeated like a prayer at the moment the drugs enter the vein.

What We Owe Them

Socrates told the jury that if they killed him they would injure themselves more than they would injure him. He believed this. He believed it not because he thought he was especially important but because he thought that performing an injustice is worse for the one who performs it than for the one who suffers it. The moral harm of carrying out an execution falls, in his account, primarily on those who carry it out: the jurors who voted for death, the officials who administered it, the citizens who authorized the system and maintained it.

This claim is not self-evidently true, and many people reading the *Apology* have found it frustrating. What about the victims? What about the people who were killed by those on death row, whose families carry the weight of that loss for the rest of their lives? Socrates does not address this directly, because he was not a murderer and his trial was not about murder. But the tradition that follows from his trial — Lactantius, Beccaria, Rush, the entire line of abolitionist argument in this series — does address it. And the answer that tradition gives is not that the victims don't matter but that killing the person who killed them does not heal

the wound. It adds another death to the ledger. It gives the surviving families not closure but a state-sanctioned killing to carry alongside their grief.

What we owe the people on death row is not exoneration of their crimes. What we owe them is the recognition that Socrates insisted on in 399 BCE: that they are human beings, that the process that placed them where they are is not infallible, that killing them serves no purpose that could not be served by other means, and that the society that authorizes their deaths takes on a moral weight from that authorization that it cannot simply set aside. Socrates told the jurors who voted to kill him that they had not done him harm, but that they had condemned themselves. Twenty-four centuries of history have not improved on that formulation. The harm falls on those who do it. The question is whether we are willing to see it.

DEFINITIONS AND TERMS

The Apology. The Greek word *apologia* means a formal defense or speech in response to an accusation — not an expression of regret. The Apology of Socrates is his defense speech at his trial, not an acknowledgment of wrongdoing. The irony runs throughout the text: Socrates is called to apologize for his life, and his apology amounts to an assertion that his life was entirely right.

The Delphic oracle. The oracle at Delphi, sacred to the god Apollo, was the most prestigious religious authority in ancient Greece. Its pronouncements were famously ambiguous, requiring interpretation. The oracle's statement that no one was wiser than Socrates is the starting point of his philosophical mission: since he believed himself to have no wisdom, the statement must mean something else, and discovering what it meant became the work of his life.

Meletus. The primary formal accuser of Socrates, described as a young man with little reputation and genuine animus toward Socrates on behalf of the poets whom Socrates had embarrassed. In the cross-examination that forms the center of the Apology, Socrates systematically demolishes the formal charges, showing their internal contradiction and demonstrating that Meletus had not thought carefully about any of them.

Anytus. The most politically significant of the three accusers. A successful businessman and politician associated with the restored democracy, Anytus appears to have been the driving force behind the prosecution. His motivation seems to have been a combination of genuine political concern about Socrates's influence and personal resentment — Socrates had apparently embarrassed him in a conversation about his son's career prospects.

The divine sign. Socrates describes throughout his life the presence of a daimonion — a divine something or divine voice — that periodically dissuades him from courses of action. It never tells him what to do; it only prevents him from doing certain things. This sign is one of the formal charges against him: introducing new divine beings. Socrates observes that the sign's silence — when he left his house that morning, on his way to the court, and at every point while he was speaking — is itself a form of confirmation that what is happening to him is, in some larger sense, good.

The Thirty Tyrants. An oligarchic government installed in Athens in 404 BCE following the city's defeat in the Peloponnesian War. The Thirty ruled by terror for approximately eight months, executing hundreds of citizens and driving thousands into exile. Socrates's refusal to assist in the execution of Leon of Salamis — mentioned in the Apology as evidence of his consistent commitment to justice regardless of who held power — is one of the most concrete examples of moral courage in the text.

The Prytaneum. The civic center of Athens, where the sacred fire of the city was maintained and where distinguished citizens and honored guests were fed at public expense. To propose maintenance in the Prytaneum as his counter-penalty is

Socrates's most provocative gesture in the entire trial. He is saying, in effect: if you want to know what I actually deserve for my service to this city, it is what you give to your greatest benefactors, not a fine or imprisonment or exile.

The unexamined life. Socrates's most famous claim, made in the context of explaining why he cannot propose silence as a counter-penalty: the unexamined life is not worth living. This is not a statement about the value of philosophical education in the abstract. It is a personal claim about what makes his own life worth living: the daily practice of questioning himself and others about virtue, wisdom, and the good. Without that practice, what would remain would not be his life.

Hemlock. The means of execution used in Athens for those condemned to death. Condemned persons were required to drink a preparation of poison hemlock, which produces paralysis starting from the extremities and moving upward toward the heart. The death of Socrates by hemlock is described in the *Phaedo*, Plato's account of his final hours. He died surrounded by friends, talking about the soul and immortality, and met his death with the equanimity he describes in the *Apology*.

FURTHER READING

On Socrates and Plato

Plato. *The Last Days of Socrates*. Translated by Hugh Tredennick and Harold Tarrant. Penguin Classics, 2003. Contains the *Euthyphro*, the *Apology*, the *Crito*, and the *Phaedo* — the four dialogues that frame the trial and death of Socrates. The essential companion reading to this volume.

Stone, I. F. *The Trial of Socrates*. Little, Brown, 1988. A journalist's investigation into the political context of the trial, arguing that Socrates was more complicit in Athens's aristocratic faction than the *Apology* suggests. Essential counterweight to an entirely sympathetic reading.

Brickhouse, Thomas C., and Nicholas D. Smith. *Socrates on Trial*. Princeton University Press, 1989. The most careful philosophical analysis of Socrates's defense strategy, examining each argument in detail and assessing its logical and rhetorical force.

Vlastos, Gregory. *Socrates: Ironist and Moral Philosopher*. Cornell University Press, 1991. The defining modern scholarly account of Socratic method and character, with detailed treatment of the *Apology*'s arguments.

On Capital Punishment in the Ancient World

Allen, Danielle S. *The World of Prometheus: The Politics of Punishing in Democratic Athens*. Princeton University Press, 2000. Examines how the Athenian democracy understood and administered punishment, providing essential context for understanding the trial and execution of Socrates within its legal and political framework.

Garnsey, Peter. *Social Status and Legal Privilege in the Roman Empire*. Oxford: Clarendon Press, 1970. Traces how capital punishment fell systematically on those without social protection in the ancient world — a pattern that the Socrates trial complicates but does not refute.

Related Volumes in This Series

Lactantius. *On the Sacred Animal: A Modern Engagement with Lactantius Against the Death Penalty*. Edited and modernized by Jeff Hood. Complicit Press, 2026. The first systematic Christian anti-execution argument, written three centuries after the death of Socrates by a man who had read him carefully. Lactantius's absolute prohibition on state killing is in direct continuity with the tradition the Apology begins.

Beccaria, Cesare. *An Essay on Crimes and Punishments*. 1764. Edited and modernized by Jeff Hood. Complicit Press, 2026. The Enlightenment successor to this tradition, written out of a legal culture steeped in Plato. The argument that the social contract does not authorize the state to take life echoes, in secular form, Socrates's claim that killing him does the killers more harm than it does him.

Rush, Benjamin. *Considerations on the Injustice and Impolicy of Punishing Murder by Death*. 1792. Edited and modernized by

FURTHER READING

Jeff Hood. Complicit Press, 2026. The American founding-era abolitionist argument, written by a man schooled in Plato, whose critique of the death penalty's claimed deterrent effect stands squarely in the tradition the Apology begins.

Darrow, Clarence. *An Eye for an Eye*. 1905. Edited and reset by Jeff Hood. Complicit Press, 2026. The companion fiction volume. Where the Apology is the condemned person's own voice maintaining its dignity before the court, Darrow's novella is the condemned person's voice from inside the cell — the same witness, a different register.

THE ABOLITION CLASSICS. V. 0



BEFORE ABOLITIONISM

ARGUMENTS AGAINST DEATH, 250 BCE TO 1631

From Ashoka to Spee

EDITED AND MODERNIZED BY

JEFF HOOD

BEFORE ABOLITIONISM

THE ABOLITION CLASSICS

The texts that built the case against the death penalty

V. 0

BEFORE ABOLITIONISM

Arguments Against Death, 250 BCE to 1631

THE JAIN AND BUDDHIST CANON

AŚOKA

THE MAHĀBHĀRATA

THE MISHNAH

AUGUSTINE OF HIPPO

NICHOLAS I

PETR CHELČICKÝ

THOMAS MORE

SEBASTIAN CASTELLIO

FRIEDRICH SPEE

Edited and Modernized by

JEFF HOOD

THE ABOLITION CLASSICS

V.0

COMPLICIT PRESS

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Ācārāṅga Sūtra follows Hermann Jacobi (1884); the Dhammapada follows F. Max Müller (1881); the Fourth Pillar Edict of Aśoka follows E. Hultzsch (1925) and Vincent A. Smith (1909); the Mahābhārata follows Kisari Mohan Ganguli (1883–96).

Mishnah Makkot 1:10 rendered for this edition.

Augustine, Letter 133, follows the translation by J. G. Cunningham in *Nicene and Post-Nicene Fathers*, First Series, Vol. 1 (1887).

Chelčický selections follow the translation of *The Net of Faith*, Book One, by Enrico C. S. Molnár (1947), transcribed and released by nonresistance.org (2006).

More, *Utopia*, Book One, follows the translation by Gilbert Burnet (1684).

Nicholas I, *Responsa ad consulta Bulgarorum*, translated for this edition from the Latin in Migne, *Patrologia Latina* 119.

Castellio, *Contra libellum Calvinii*, and Spee, *Cautio Criminalis*, translated for this edition from the Latin.

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THE DEATH PENALTY ABOLITION CLASSICS

V. 0

COMPLICIT PRESS

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FOREWORD

Everybody starts the story in 1764.

Beccaria publishes *On Crimes and Punishments*, Europe reads it, Catherine the Great writes him a letter, Voltaire supplies the commentary, and the modern case against the gallows is born. That is how it gets taught. That is how I was taught it. Eighteen centuries of people hanging each other without a serious word of complaint, and then a twenty-six-year-old Milanese economist finally says the obvious thing out loud.

It is not true.

The complaint was filed. It was filed early, it was filed repeatedly, and it was filed by people standing a great deal closer to the scaffold than Beccaria ever stood. It just never accumulated.

That is the thing that got me. Not the arguments. The isolation.

Somewhere in the fourth century before Christ, Jain monks write down that no living thing may be killed, with no exception carved out for the guilty, and Europe does not hear of it for two thousand years. A Buddhist emperor orders three days of grace for men already condemned and has it cut into a pillar, and the pillar is still standing while the West is busy inventing the drop. A rabbi in Roman Palestine says that had he sat on the court, nobody would ever have been put to death.

A bishop in North Africa writes to a judge and begs him not to execute men who have just murdered one of his own priests. A pope writes to a warlord fresh off a massacre and tells him to stop killing people, and to stop torturing them, and gives a reason about confession that would have saved a great many lives if anybody had troubled to read it in 1600. A Czech farmer who can barely manage Latin works out from the Gospels that the state has no business holding a rope at all.

The Lord Chancellor of England writes that a country which hangs thieves has first manufactured the thieves and then killed them for it, and then goes on to burn men himself. A schoolteacher in Basel watches a man burn on green wood and has a book out in four months, printed under a false name in a city that is not the city on the title page. A Jesuit walks women to the stake, concludes that every one of them was innocent, and publishes without his name on it because his name would have killed him.

None of them knew about each other in any way that mattered. Every one of them had to start over.

I have felt that. Anyone who does this work has felt it. You stand outside a prison in Arkansas at midnight and it does not feel like you are the latest name on a list going back two thousand years. It feels like you are the only person who ever thought of it, and everybody reasonable is across the road with a sign.

You are not the only one. That is what this book is for.

I want to be careful about what I am claiming, because most of these men are not abolitionists in the way we use the word.

Aśoka kept the death penalty and slowed it down. Augustine is pleading for one set of prisoners in front of one judge. Nicholas told one khan one time, and the papacy spent the next six centuries doing the opposite. Chelčický will grant the pagan state its plaster on the abscess. More is arguing about thieves and will be lighting fires himself within twenty years. Castellio refuses to defend the man he is defending, and says so twice.

Only the Jains and Akiva say the whole thing flat, with nothing held back and nobody excepted.

So this is not a lineage. It is eight voices across nineteen centuries arriving at some portion of the same conclusion from directions that never touched, which is either a coincidence or it is the thing itself pressing through wherever the material happens to be thin enough to let it.

I think it is the second one. I have thought so for a long time.

Read the *Ācārāṅga* first, and then Akiva. They are the shortest and they are the hardest. Neither one says the accused was innocent. Neither one

says the evidence was thin. They are describing a world with courts in it that hold the authority to kill, and they are saying that in their hands nobody would have died there. Ever. For anything.

Nineteen hundred years and nobody has improved on it.

The Rev. Dr. Jeff Hood
North Little Rock, Arkansas
2026

EDITOR'S NOTE

THE PROBLEM

There is a hole in the abolitionist canon between the ancient world and the Enlightenment, and it is not there because the hole is empty. It is there because the material sits in six languages, is buried inside works ostensibly about something else, and in several cases had never been printed in English at all.

Eight texts have been taken out of that hole and set here in order.

THE TEXTS

The **Ācārāṅga Sūtra**, oldest of the Jain canonical texts, compiled around the fourth or third century BCE. The **Dhammapada**, chapter ten, the chapter of the rod. The **Fourth Pillar Edict of Aśoka**, cut into stone around 243 BCE, which is the oldest surviving order of any state restraining the death penalty. And a passage from the **Mahābhārata**, included because the Hindu record is genuinely divided and this book is not going to pretend otherwise.

Mishnah Makkot 1:10, from the earliest stratum of rabbinic law, compiled around the year 200. It is given complete, objection included, because the objection is half the passage and every edition that drops it is lying by omission.

Augustine, Letter 133, written in 412 to the tribune Marcellinus, who had just extracted confessions from the men who killed the priest Restitutus. Augustine wrote twice more on the same case, to Marcellinus again and to his brother Apringius, the proconsul who actually held the power of sentence. Those are described in the introduction and not set

here, since Letter 134 was left out of the Cunningham selection.

Nicholas I, from the *Responsa ad consulta Bulgarorum* of 866. Two chapters out of a hundred and six: the twenty-fifth, on sparing the guilty as well as the innocent, and the eighty-sixth, on judicial torture.

The Net of Faith, written by Petr Chelčický around 1443. Only Book One has ever been rendered into English. What is given here is a set of selections from it, and no English reader has ever had the whole argument.

Utopia, Book One, 1516. The dinner at Cardinal Morton's table, which is the best-known demolition of the English gallows written before the eighteenth century.

Contra libellum Calvini, written by Sebastian Castellio in 1554, four months after Servetus burned at Geneva, too dangerous to print, and not published until 1612.

Cautio Criminalis, 1631. Selected doubts out of the fifty-one, chosen for the ones that are not about witchcraft at all, but about what happens to a legal system when a crime is declared exceptional.

THE TRANSLATIONS

Everything in this book is in the public domain, including the English.

That rule was harder to keep than it sounds. For several of these works a good modern translation exists and is under copyright, which would have made this volume something the press does not own. The answer was not to hunt for another translation. It was to go back to the original, which has been free for centuries, and make a new one.

So Nicholas I is translated for this edition from the Latin in Migne, *Patrologia Latina*, volume 119. Castellio is translated from the Latin of *Contra libellum Calvini*. Spee is translated from the Latin of the second edition of *Cautio Criminalis*, Frankfurt, 1632. Mishnah Makkot 1:10 is rendered for this edition.

The rest follow public-domain translations, modernized. Hermann Jacobi for the *Ācārāṅga*, 1884. F. Max Müller for the *Dhammapada*, 1881. E. Hultsch and Vincent A. Smith for the edict, 1925 and 1909. Kisari Mohan

Ganguli for the Mahābhārata, 1883 to 1896. J. G. Cunningham for Augustine, 1887. Enrico Molnár for Chelčický, 1947, transcribed and released without copyright in 2006. Gilbert Burnet for More, 1684.

THE METHOD

Spelling, punctuation, and sentence length have been modernized throughout. Where a translator's phrasing has gone opaque with age it has been opened out. Nothing has been added, and no argument has been sharpened in the direction I would prefer it to run.

Each work is introduced separately, and the introductions carry the history, the objections, and in four cases the parts of the record that do not flatter the author. More burned heretics. Aśoka never abolished anything. Nicholas presided over a church that would spend the next six hundred years contradicting him. Augustine, who wrote the finest surviving plea against retaliation in Latin, also handed the West its doctrine of the just war.

None of that is a reason to leave them out. It is the reason to print the introductions.

Jeff Hood
Editor

Had we been on the court, no one would ever have been put to death.

Rabbi Tarfon and Rabbi Akiva, Mishnah Makkot 1:10, c. 200

TO ALL, LIFE IS DEAR

The oldest surviving order in the world restraining the death penalty was cut into stone by a Buddhist emperor around 243 BCE, and almost nobody who argues about capital punishment in English has ever read it.

That is where this book has to start, because the whole shape of the story we tell ourselves is wrong. The argument does not begin in Christian Europe and it does not begin with Beccaria. It begins on the Gangetic plain, in three traditions that were working on the problem of killing several centuries before anybody in this volume was born, and it begins with a conclusion more radical than anything Europe would reach for two thousand years.

JAINISM

The Jain position is the most absolute statement against killing produced by any human civilization, and it is not hedged.

The *Ācārāṅga Sūtra* is the oldest of the Jain canonical texts, compiled somewhere around the fourth or third century BCE out of material attributed to Mahāvīra, the contemporary of the Buddha. It does not carve out an exception for the guilty, or for war, or for the state. There is no category of person it is permissible to kill. Jain doctrine does not merely disapprove of the executioner; it has no conceptual room for him.

This was not only theory. Jain influence at court produced actual policy. The Gujarati king Kumārapāla, under the guidance of the Jain monk Hemacandra in the twelfth century, is recorded as having prohibited animal slaughter and, by several accounts, capital punishment across his territory. Whatever the exact scope of that, the record of a medieval state trying to govern without an executioner exists, and it is

Jain.

The English here follows Hermann Jacobi's translation in *Jaina Sūtras*, Part I, Sacred Books of the East volume 22, published in 1884 and long in the public domain.

BUDDHISM

The Buddhist material comes in two forms, and both matter.

The first is doctrinal. The tenth chapter of the *Dhammapada* is called the *Danḍavagga*, the chapter of the rod, and the rod means punishment. Its opening verses do not argue from scripture or from the nature of the state. They argue from one observation, which is that the person about to be struck is afraid, and so are you. Everything follows from that.

The second is legal, and it is the reason this chapter opens the book. Around 243 BCE the emperor Aśoka, who had converted after the slaughter at Kalinga, had a series of edicts carved into pillars and rock faces across the subcontinent. The fourth of the Major Pillar Edicts concerns the conduct of his provincial officers. Buried in the middle of it, almost casually, is an order granting three days to men already sentenced and lying in prison under condemnation of death.

Read what those three days are for. Not appeal in our sense. The relatives are to go and plead with the officers for the man's life, and if he has no relatives, or nobody willing, he is to have the time to give alms and keep a fast for the sake of what comes after.

That is a stay of execution and a clemency window, and it is also something no modern death warrant contains: a recognition, written into the order itself, that a man about to be killed by the state has business to finish that is nobody's business but his own. In the fifth pillar edict Aśoka records that in the twenty-six years since his anointment he had ordered the release of prisoners twenty-five times.

There is a scholarly argument that Aśoka never abolished the death penalty and this is true. He did not. He kept it and slowed it down. That makes him the first recorded head of state to do the thing every abolitionist since has settled for on the way to the thing they actually

wanted.

The verses follow F. Max Müller's translation of 1881, Sacred Books of the East volume 10. The edict follows the translations of E. Hultzsch, *Inscriptions of Aśoka*, 1925, and Vincent A. Smith, 1909, both public domain.

HINDUISM

Hinduism is the honest problem in this chapter and I am not going to smooth it over.

The Hindu legal tradition is not abolitionist. The *Manusmṛti* prescribes death readily and by method. The *Arthaśāstra* treats execution as ordinary statecraft. The *daṇḍa* literature, the doctrine of the rod, holds that without the king's punishment the strong would roast the weak like fish on a spit, which is an argument you will hear this year from a prosecutor.

And running against all of it, in the same books, is *ahiṃsā*, and the repeated formula that abstention from injury is the highest duty of all. The *Mahābhārata* holds both positions and does not resolve them. What it does instead is more interesting, and it is why the passage is set here: it puts the contradiction in the mouth of a king who has just won a war and cannot bear what he has done, and it lets him say out loud that the teaching he is being given has loosened every tie that binds him to morality.

Yudhiṣṭhira is not given an answer. He is given more instruction. He remains unconvinced. Anyone who has ever sat in a clemency hearing knows that room.

The English follows Kisari Mohan Ganguli's complete translation of the *Mahābhārata*, published between 1883 and 1896, in the public domain.

FROM THE ĀCĀRĀṄGA SŪTRA

The Arhats and Bhagavats of the past, the present, and the future all say this, speak this, declare this, explain this.

All breathing, existing, living, sentient creatures should not be slain, nor treated with violence, nor abused, nor tormented, nor driven away.

This is the pure, unchangeable, eternal law, which the clever ones who understand the world have declared. Among the zealous and the not zealous, among the faithful and the not faithful, among the cruel and the not cruel, among those who have worldly weakness and those who have not, among those who like social bonds and those who do not: that is the truth, that is so, that is what is proclaimed in this creed.

Having taken up the law, one should not hide it and one should not forsake it.

All beings are fond of life. They like pleasure. They hate pain. They shun destruction. They like life and long to live.

To all, life is dear.

FROM THE DHAMMAPADA, CHAPTER OF THE ROD

All tremble at the rod. All fear death. Remembering that you are like them, do not kill, and do not cause slaughter.

All tremble at the rod. All love life. Remembering that you are like them, do not kill, and do not cause slaughter.

Whoever, seeking his own happiness, punishes or kills beings who also long for happiness, will not find happiness after death.

Whoever, seeking his own happiness, does not punish or kill beings who also long for happiness, will find happiness after death.

FROM THE FOURTH PILLAR EDICT OF AŚOKA, C. 243 BCE

Thus speaks the Beloved of the Gods, the king who looks with kindness.

I have appointed my officers over many hundreds of thousands of people, and I have given them independent authority in the awarding of honors and of penalties, so that they may do their work confidently and without fear, and may work for the welfare and the happiness of the country people.

For it is as when a man hands his child over to a skilled nurse, and feels easy in his mind, and says to himself: the skilled nurse is eager to care for the happiness of my child. So have I appointed these officers for the welfare and the happiness of the country.

It is desirable that there should be one rule in judicial proceedings and one rule in punishment.

And my order goes even this far. To those lying in prison who have been tried, on whom punishment has been passed, and who have been condemned to death, a respite of three days is granted by me.

In that time their relations may plead with the officers for their lives. Or, if there is nobody to plead for them, they may give alms or keep a fast, so as to gain the world to come.

For this is my desire: that even when their time has run out, they should gain the world to come. And that among the people various practices of duty should grow, and self-control, and the giving of gifts.

FROM THE MAHĀBHĀRATA

Yudhiṣṭhira said:

If a thing so horrible, a thing which like falsehood should never be an object of regard, is now cited to me as duty, then what act is there from which I ought to hold back? Why then should robbers not be respected?

I am stupefied. My heart is pained. All the ties that bind me to morality are loosened. I cannot quiet my mind, and I cannot bring myself to act in the way you have suggested.

Bhīṣma said:

I do not instruct you in duty from what I have heard in the Vedas alone. What I have told you is the result of wisdom and experience. This is

the honey the learned have gathered.

Kings should gather wisdom from many sources. No one can accomplish his course through the world with the help of a morality that is one-sided.

THE DESTRUCTIVE COURT

The Mishnah is the oldest layer of rabbinic law, compiled in Roman Palestine around the year 200 out of material considerably older. Tractate Makkot deals with lashes, cities of refuge, and the punishment of witnesses who testify falsely in capital cases. The tenth paragraph of its first chapter is four sentences long and it is the earliest surviving argument for something very close to abolition.

The context matters. Rabbinic law surrounds the death penalty with procedural requirements so demanding that a conviction becomes nearly impossible to obtain: two eyewitnesses to the act itself, a formal warning issued to the accused immediately beforehand, an acknowledgment by the accused that he understood the warning, and a court of twenty-three. Circumstantial evidence is inadmissible. A unanimous verdict of guilt is grounds for acquittal, on the theory that a court in which nobody could find anything to say for the defendant has not done its work.

By the time this was written down the courts had in any case lost the authority to carry out executions under Roman rule. So there is a reading of the passage that makes it theoretical, a memory of a power no longer held, and that reading is common and not stupid.

I do not think it survives contact with what Akiva and Tarfon actually say. They are not describing a court that rarely killed. They are saying that in their hands it would never have killed, which is a statement about themselves and not about the evidentiary rules. And Rabban Shimon ben Gamliel's answer, which is preserved right there in the text, is not the answer you give to a theoretical position. It is the answer you give to a man who has just said something dangerous.

That objection is the deterrence argument. It is written down here in the year 200, in one sentence, and it has not been improved on since either.



A court that puts a person to death once in seven years is called a destructive court.

Rabbi Elazar ben Azariah says: once in seventy years.

Rabbi Tarfon and Rabbi Akiva say: had we been on the court, no one would ever have been put to death.

Rabban Shimon ben Gamliel says: they too would have multiplied those who shed blood in Israel.

III

DO NOT CALL FOR THE EXECUTIONER

In 411 the Donatist schism came to its formal end at a conference in Carthage presided over by Marcellinus, an imperial tribune sent from Ravenna. He ruled for the Catholic side and then began enforcing the laws against the Donatists with some rigor.

In the district of Hippo, where Augustine was bishop, a band of Circumcellions and Donatist clergy had killed a priest named Restitutus and had beaten another priest, Innocentius, cutting off his finger and gouging out one of his eyes. They were arrested. Marcellinus examined them and most of them confessed.

Roman law provided for retaliation in kind. Augustine understood exactly what was coming, and he wrote this letter to stop it.

It is worth being clear about what this is. It is not a treatise. It is a bishop intervening in a live case, on behalf of men who had murdered one of his own priests and mutilated another, four hundred miles from any philosophical safety. He does not dispute the confessions. He does not suggest the men are innocent. He says that the church does not want its dead avenged by the state, that a punishment which restrains a violent man without destroying him is a mercy and should be called one, and that a judge who was gentle enough to extract a confession with a rod instead of the rack should not now send for the executioner.

He wrote twice more. Letter 134 went to Apringius, Marcellinus's brother and the proconsul of Africa, who actually held the authority to pass sentence. Letter 139 returned to Marcellinus on the same subject. Neither is set in this volume, for the reasons given in the editor's note.

There is an ending to this that Augustine did not write and could not have foreseen. Two years later, in September 413, Marcellinus and Apringius were themselves accused of conspiring in a revolt and were executed at Carthage. Augustine and the African bishops interceded for them and it did not work.

The judge he was writing to died on a charge he had no chance to answer, and the man who wrote this letter was the one who tried to stop it.

TO MARCELLINUS, 412

To Marcellinus, my noble lord, justly distinguished, my son very much beloved, Augustine sends greeting in the Lord.

I have learned that the Circumcellions and clergy of the Donatist faction from the district of Hippon, whom the guardians of public order brought to trial for what they did, have been examined by you, and that most of them have confessed their part in the violent death of the presbyter Restitutus, and in the beating of Innocentius, another Catholic presbyter, and in the digging out of his eye and the cutting off of his finger.

This news has thrown me into the deepest anxiety. I am afraid you may judge them worthy, according to the laws, of a punishment no less severe than what they inflicted on others, suffered now in their own persons.

So I write to beg you, by your faith in Christ and by the mercy of Christ the Lord himself, not to do this, and not to permit it to be done.

We might have passed over the execution of criminals in silence, since these men were not brought to trial on any accusation of ours but on an indictment laid by those whose charge is the keeping of the public peace. But we do not want the sufferings of the servants of God avenged by the infliction of the very same injuries in the way of retaliation.

Not that we object to taking away from wicked men the liberty to commit further crimes. Our desire is that justice be satisfied without the taking of their lives or the maiming of any part of their bodies, and that by whatever coercion the laws allow they be turned from their frenzy back to the quietness of men in their right minds, or else compelled to give up their violence and take up some useful labor.

This is called a penal sentence. But who does not see that when a restraint is placed on the boldness of savage violence, and the remedies that produce repentance are not withdrawn, such discipline ought to be called a benefit rather than a punishment?

Fulfill, Christian judge, the duty of an affectionate father. Let your indignation at their crimes be tempered by considerations of humanity. Do not be provoked by the atrocity of what they did into gratifying the passion of revenge. Be moved instead by the wounds these deeds have inflicted on their own souls, and desire to heal them.

Do not lose now the fatherly care you kept during the examination. You extracted the confession of such horrid crimes not by stretching them on the rack, not by furrowing their flesh with iron claws, not by scorching them with flame, but by beating them with rods, the correction schoolmasters use, and parents in chastising their children, and often bishops in the sentences they hand down.

Do not now punish with extreme severity the crimes you searched out with leniency.

The need for harshness is greater in the investigation than in the punishment. Even the gentlest men use diligence and pressure in searching out a hidden crime, so that they may find someone to whom they can show mercy. It is generally necessary to use more rigor in the inquiry, so that when the crime has been brought to light there is room to display clemency.

All good works love to be set in the light, not in order to win glory from men, but, as the Lord says, that they seeing your good works may glorify your Father who is in heaven. For the same reason the apostle was not satisfied with urging us to practice moderation, but commands us to make

it known. *Let your moderation be known to all men*, he says, and in another place, *showing all meekness to all men*.

So too that famous forbearance of holy David, when he spared his enemy who had been delivered into his hand, would not have been so conspicuous had his power to do otherwise not been plain to everyone.

Therefore do not let the power of executing vengeance make you harsh, seeing that the necessity of examining the criminals did not make you lay aside your clemency. Do not call for the executioner now that the crime has been found out, having refused to call in the torturer while you were finding it out.

Finally, you have been sent here for the good of the church. I declare that what I am recommending is expedient for the interests of the Catholic Church. Or rather, so that I do not seem to reach beyond the boundaries of my own charge, I declare that it is for the good of the church in the diocese of Hippo.

If you will not listen to me asking this as a friend, listen to me offering it as counsel from a bishop. Though I am speaking to a Christian, and in a case such as this, it would not be presumption for me to say that it becomes you to hear me as a bishop commanding with authority.

I know the principal charge of the church's legal business has been laid on you, but I believe this particular case belongs to the proconsul, and I have written him a letter as well, which I beg you either to deliver to him or, if necessary, to recommend to his attention. I entreat you both not to resent our intercession, or our counsel, or our anxiety, as though it were meddling.

Let the sufferings of Catholic servants of God, which ought to build up the weak, not be stained by the repayment of injury on those who did them wrong. Temper the rigor of justice instead, and let it be your care, as sons of the church, to commend both your own faith and your mother's clemency.

May almighty God enrich you with every good thing, my noble and justly distinguished lord and dearly beloved son.

RESCUE THOSE BEING LED AWAY

In 864 the khan of the Bulgars, Boris, accepted baptism. His nobles rose against him for it. He put down the revolt and killed the leading families to the last child, and then, being a new Christian and uncertain what a Christian ruler was permitted to do, he sent a list of questions to Rome.

The questions themselves are lost. What survives is the answer, sent in the autumn of 866 by Pope Nicholas I, running to a hundred and six chapters and covering everything the Bulgarians had asked about: marriage, fasting, trousers, whether one may go to war on a Sunday, what to do with the bodies of suicides, and how a judge should get the truth out of a man who will not give it.

It is the strangest document in this book. A pope is writing to a warlord who has just committed a massacre, and instead of congratulating him on the defense of the faith, tells him plainly that killing the children of the conspirators was a sin he did not escape and could not have committed without fault.

Then, in the twenty-fifth chapter, he tells him to stop killing people.

The argument is built on Paul. Before his conversion Paul breathed threats and slaughter; after it, he never once inflicted the penalty of death on anybody, and would have taken damnation on himself in exchange for his brothers. Nicholas puts that to Boris as the pattern of what conversion is supposed to do to a ruler, and then makes the demand explicit, and does not restrict it to the innocent.

The eighty-sixth chapter takes up judicial torture. The Bulgarians had described their practice: when a thief or a bandit denies the charge, the judge beats his head and drives iron goads into his sides until the truth

comes out. Nicholas answers that no law, divine or human, permits this, and gives a reason that has not been improved on in eleven hundred years. A confession has to be something a man gives. It cannot be something taken off him.

That the ninth-century papacy was clearer on the reliability of coerced confession than the courts of the seventeenth century, or than the interrogation rooms of the twentieth, is a fact I would rather not have to report.

None of this made Nicholas an abolitionist. Popes after him presided over a great deal of burning, and the letter itself was later quarried by canon lawyers for other purposes entirely. But the sentence is in the file, and it has been in the file since 866.

This is a new translation, made for this volume from the Latin as printed in Migne, *Patrologia Latina*, volume 119, where the letter appears as number 97. The only complete modern English translation is under copyright and is not the basis of anything here.

CHAPTER XXV

The blessed apostle Paul was formerly a persecutor and a reviler, breathing threats and slaughter against the disciples of the Lord. After he had obtained mercy and was turned by divine revelation, he not only never once inflicted the penalty of death upon anyone, but wished himself accursed for the sake of his brothers, and stood most willing to spend and to be spent for the souls of the faithful.

So must it be with you. Now that you have been called by the choosing of God and lit by his own light, you must no longer gape after deaths as you did before. Rather, at every opportunity you can find, you must without any doubt call every man back to life, the life of the body as well as the life of the soul.

And as Christ brought you back from the everlasting death in which you were being held, and led you to eternal life, so must you labor to snatch all men from the destruction of death. Not only the innocent. The guilty as well.

This is according to the word of the most wise Solomon:

Rescue those who are being led away to death, and do not cease
to deliver those who are dragged off to slaughter.

CHAPTER LXXXVI

You tell us that when a thief or a bandit has been caught and denies what is charged against him, the judge in your country beats his head with blows and pricks his sides with iron goads until he brings out the truth.

Neither divine law nor human law admits such a thing at all.

A confession ought to be freely given and not forced. It is not to be dragged out by violence. It is to be offered willingly.

THE NET AND THE WHALES

Petr Chelčický was a farmer in southern Bohemia who knew barely enough Latin to apologize for it, wrote only in Czech, held no office in any church, and produced the most thoroughgoing rejection of state violence written in Europe before the Reformation.

The break came in 1419. The Hussite movement was arming. At a mass gathering outside Prague the delegates from southern Bohemia asked the masters of the university whether a Christian might attack an enemy if necessity arose, and Jakoubek of Stříbro answered yes, provided cruelty and greed were kept out of it. Chelčický was not satisfied. He went to Jakoubek's rooms near the Bethlehem Chapel afterward and asked him to produce scriptural warrant from the New Testament for a war short of cruelty. Jakoubek could not. He could appeal to the fathers and to Thomas Aquinas on the just war, and that was all he had.

Chelčický's reply was one sentence: God never revoked his commandment, you shall not kill.

He went home to his farm and spent the rest of his life writing. *The Net of Faith*, composed around 1443, is his largest work. Its governing image comes from the miraculous catch in Luke's gospel. The net is the faith, the fish are the Christians, and the net was torn when two great whales swam into it: the pope, wielding royal power, and the emperor, who smuggled pagan violence in under the skin of faith. Everything after the Donation of Constantine is the tearing.

The men who gathered around him, the Brethren of Chelčice, refused military service, refused oaths, refused to hold any government office, and refused to sanction capital punishment. They became the seed of the Unity of Brethren, which became the Moravian Church.

Almost nobody has read him. Tolstoy found him in the 1890s and called the silence around him a conspiracy. The only English translation of any part of *The Net of Faith* was made by Enrico Molnár in 1947 as a divinity school thesis, covering Book One alone, and it existed as a single manuscript in a library until it was transcribed and released in 2006. Book Two has never been translated at all.

What follows is a set of selections, modernized, from that translation and from the passages of Chelčický preserved in it. It is not the argument entire. Nobody reading in English has ever had the argument entire, and until somebody funds the rest of the translation, nobody will.

THE TWO WHALES

The net was torn when two great whales entered it. The first was the supreme priest, wielding royal power and honor greater than the emperor's. The second was the emperor, who with his rule and his offices smuggled pagan power and violence in beneath the skin of faith.

When these two monsters began to turn about in the net they rent it so badly that very little of it has remained whole. And out of these two whales, so destructive of Peter's net, there were spawned many scheming schools, by which the net is torn further still, until nothing remains but tatters and false names.

ON THE SWORD

God never revoked his commandment, you shall not kill.

Our faith obliges us to bind wounds, not to make blood run.

He who obeys God needs no other authority.

Wars and other kinds of murder have their beginning in the hatred of the enemy and in the unwillingness to be patient with evil. Their root is in intemperate self-love and in immoderate affection for temporal possessions. These conflicts are brought into the world because men do

not trust the Son of God enough to abide by his commandments.

ON THE CHRISTIAN STATE

A Christian cannot rule, for God is the only ruler.

A secular ruler is bound by the very fact of his sovereignty to use violence and other methods that are not Christian. If he should somehow become a Christian, his only means of ruling would then be persuasion, which is to say preaching. And if a king preaches he is no longer a king; he has become a priest. As a king he is able to do nothing but hang all the evil men. For no king, not even the best one, could succeed in reforming an evil people except by the law of Christ.

Consider for yourself how state authority can approach men who are bound by the divine commandment not to resist evil in times of adversity, but to turn the other cheek when the one is struck, to leave revenge to God, and not to return evil for evil.

ON WHAT IS BEING REFUSED

The rule of Christ is perfect, and therefore it never uses compulsion. The virtue he expects of every Christian springs from a good and free will. Originating in freedom, it carries the responsibility of choice, to choose either the best or the worst.

How small and how barren is the dominion of pagan kings compared with the dominion of Christ. Temporal power heaps burdens and sufferings on its subjects instead of freedom and consolation. Yet the kingdom of Christ is so powerful and so perfect that if the whole world wanted him for king it would have peace, and all things would work together for good. There would be no need of temporal rulers, for everyone would stand by grace and truth. The need for kings arises only because of sins and sinners.

The Lord Jesus calls us to the best good. The devil and the world call us to the worst evil. Therefore choose joy or choose hell. The choice of either of these ways is in your hands.

FIRST YOU MAKE THIEVES

Thomas More was thirty-eight when he wrote *Utopia*, on an embassy to Flanders, in Latin, for an audience of humanists. Book Two describes the island. Book One is the argument that made Book Two necessary, and at its center is a dinner party.

The scene is set in the household of Cardinal John Morton, Archbishop of Canterbury and Lord Chancellor, where More himself had served as a boy. The traveler Raphael Hythloday is at table. An English lawyer praises the vigorous execution of justice on thieves, noting cheerfully that they were being hanged so fast there were sometimes twenty on one gibbet, and wondering aloud why there were still so many thieves left.

What follows is the best-known demolition of the English gallows written before the eighteenth century. Hythloday makes four moves. The punishment is disproportionate, since nothing in the world is equal in value to a human life. It is ineffective, since no severity restrains a man who has no other way to eat. It is the state's own doing, since the enclosures that turned sheep into devourers of men created the thieves in the first place, and a country that permits people to be ruined and then hangs them for the consequences has first made thieves and then punished them. And it is actively lethal, since a thief who knows he will hang either way has every reason to kill the witness.

That last point is the sharpest thing in the passage and it is still true. Make the penalty for the lesser crime identical to the penalty for the greater and you have handed the criminal a reason to commit the greater.

Hythloday's alternative is labor rather than death, modeled on a people he calls the Polylerites. The Cardinal, to the visible irritation of everyone else at the table, says it might at least be worth trying.

Now the part that has to be said. Thomas More, as Lord Chancellor, presided over the burning of men for heresy. He defended it in print. There is no reading of *Utopia* that dissolves this, and no honest edition should try. What the contradiction demonstrates is the thing this whole volume is about: an argument against killing can be perfectly clear in a man's hands and still fail to reach the part of him that holds the fire.

The English here follows Gilbert Burnet's 1684 translation, modernized. Burnet made it in the years just after he had defended Lord William Russell, attended his execution, and been stripped of his lectureship for vindicating his memory. He came to More's argument, in his own account, out of the same sense of unreason in high places.

AT THE CARDINAL'S TABLE

One day, when I was dining with him, there happened to be at the table one of the English lawyers, who took the occasion to run out into a high commendation of the severe execution of justice upon thieves, who, as he said, were then hanged so fast that there were sometimes twenty on one gibbet. And upon that he said he could not wonder enough how it came to pass that, since so few escaped, there were yet so many thieves left, still robbing in all places.

Upon this I, who took the boldness to speak freely before the Cardinal, said there was no reason to wonder at the matter, since this way of punishing thieves was neither just in itself nor good for the public. The severity was too great, and the remedy was not effective. Simple theft is not so great a crime that it ought to cost a man his life, and no punishment, however severe, is able to restrain from robbing those who can find no other way to live.

In this, I said, not only you in England but a great part of the world imitate some bad schoolmasters, who are readier to whip their students than to teach them. There are dreadful punishments enacted against

thieves. It would be much better to make such provisions that every man might be put in a way to live, and so be preserved from the fatal necessity of stealing and of dying for it.

WHO MADE THE THIEVES

There is another cause of this, more particular to England.

The increase of pasture. Your sheep, which are naturally mild and easily kept in order, may now be said to devour men, and to unpeople not only villages but towns. For wherever it is found that the sheep of any soil yield a softer and richer wool than ordinary, there the nobility and gentry, and even those holy men the abbots, not content with the old rents their farms yielded, nor thinking it enough that they live at their ease and do no good to the public, resolve to do it harm instead.

They stop the course of agriculture, destroying houses and towns, keeping only the churches, and enclose the ground so they may lodge their sheep in it. Those worthy countrymen turn the best inhabited places into wilderness.

When an insatiable wretch who is a plague to his country resolves to enclose many thousand acres, the owners as well as the tenants are turned out of their holdings by trickery or by main force, or, worn down by ill usage, are forced to sell. By this means those miserable people, men and women, married and unmarried, old and young, with their poor but numerous families, are all forced to move, not knowing where to go. They must sell their household goods for almost nothing, which could not have brought them much money even if they could have waited for a buyer.

When that little money is at an end, and it will be soon spent, what is left for them to do but either steal and so be hanged, God knows how justly, or go about and beg? And if they beg they are put in prison as idle vagabonds, though they would willingly work and can find nobody who will hire them.

If you do not find a remedy for these evils, it is a vain thing to boast of your severity in punishing theft, which, though it may have the appearance of justice, is in itself neither just nor useful. If you allow your

people to be badly brought up and their manners to be corrupted from infancy, and then punish them for the crimes to which their first education disposed them, what else is to be concluded but that you first make thieves and then punish them?

WHY DEATH IS NOT LAWFUL

It seems to me a very unjust thing to take away a man's life for a little money. Nothing in the world can be of equal value with a man's life.

If it is said that it is not for the money that a man suffers, but for his breaking of the law, then I must say that extreme justice is extreme injury. We ought not to approve of those terrible laws that make the smallest offenses capital, nor of that opinion of the Stoics which makes all crimes equal, as if there were no difference between killing a man and taking his purse. Examine the two impartially and there is no likeness and no proportion between them.

God has commanded us not to kill. Shall we kill so easily for a little money?

If it is said that by that law we are only forbidden to kill except where the laws of the land allow it, then on the same grounds laws may be made in some cases to allow adultery and perjury. God has taken from us the right of disposing either of our own lives or of other men's. If it is claimed that the mutual consent of men in making laws can authorize the killing of a man in cases where God has given no example, and that this frees people from the obligation of the divine law, and so makes murder a lawful act, what is this but to give human laws preference over the divine? And if that is once admitted, by the same rule men may put whatever restrictions they please on the laws of God.

Under the law of Moses, though it was rough and severe, being a yoke laid on an obstinate and servile nation, men were only fined and not put to death for theft. We cannot imagine that in this new law of mercy, in which God treats us with the tenderness of a father, he has given us a greater license to cruelty than he gave to the Jews.

THE ARGUMENT THAT STILL HOLDS

It is plain and obvious that it is absurd, and of ill consequence to the commonwealth, that a thief and a murderer should be punished equally.

If a robber sees that his danger is the same when he is convicted of theft as it would be if he were guilty of murder, this will naturally incite him to kill the person he would otherwise only have robbed. If the punishment is the same, there is more safety in killing, and less danger of discovery, when the man who could best identify him is put out of the way.

So terrifying thieves too much provokes them to cruelty.

WHAT TO DO INSTEAD

As to the question of what more suitable punishment can be found, I think it much easier to find that than to invent anything worse.

The method I liked best was the one I observed in my travels among the Polylerites. Those found guilty of theft among them are required to make restitution to the owner, and not, as it is elsewhere, to the prince, for they reckon that the prince has no more right to the stolen goods than the thief has. If what was stolen no longer exists, then the goods of the thieves are valued, restitution is made out of them, and the remainder is given to their wives and children.

The thieves themselves are condemned to serve in the public works, but they are neither imprisoned nor chained unless there is something extraordinary in their crime. They go about loose and free, working for the public. If they are idle they are whipped, but if they work hard they are well used and treated without any mark of reproach.

None of them is entirely without hope of recovering his freedom, since by obedience and patience, and by giving good grounds to believe that they will change their manner of life, they may expect at last to obtain their liberty. Some are restored to it every year on the good character given of them.

It is obvious that these laws are as advantageous as they are mild and gentle, since vice is destroyed and men are preserved, and they are treated

in such a way as to make them see the necessity of being honest and of employing the rest of their lives in repairing the injuries they had done to society.

THE CARDINAL ANSWERS

To this he answered that it could never take place in England without endangering the whole nation. As he said this he shook his head, made some faces, and held his peace, and all the company seemed to be of his opinion.

Except the Cardinal, who said that it was not easy to form a judgment of its success, since it was a method that had never yet been tried. But if, said he, when sentence of death were passed upon a thief, the prince would reprieve him for a while and make the experiment upon him, then if it had a good effect it might be adopted, and if it did not succeed, the worst that could happen would be to execute the sentence on the condemned man at last. And I do not see, he added, why it would be either unjust, or inconvenient, or at all dangerous to allow such a delay.

When the Cardinal had finished, they all commended the proposal, though they had despised it when it came from me.

TO KILL A MAN IS NOT TO DEFEND A DOCTRINE

Michael Servetus was burned alive at Champel outside Geneva on the twenty-seventh of October, 1553, on green wood, which took a long time. John Calvin had wanted the sword instead of the fire, and had pressed for the conviction, and afterward wrote a book defending what had been done.

Sebastian Castellio had known Calvin, had worked alongside him, and had been driven out of Geneva by him years earlier over a dispute about scripture. He was teaching Greek at Basel and living close to poor. Within four months of the burning he had a book out.

De haereticis, an sint persequendi appeared in March 1554 under a false author, a false printer and a false city. It is not a treatise so much as a case file: extracts on toleration gathered from twenty-five Christian writers, ancient and modern, including Luther, and including Calvin himself from an earlier and gentler period of his life. The dedication to Duke Christoph of Württemberg is Castellio's own, signed Martinus Bellius, and it asks the question the whole century had contrived not to ask: what exactly did you do, when you killed him?

Later that same year he wrote a second book, *Contra libellum Calvini*, answering Calvin's defense line by line. It was too dangerous to print. It circulated in manuscript, and it was not published until 1612, forty-nine years after Castellio was dead.

That book is a dialogue between two speakers, Calvinus and Vaticanus. Calvinus is given Calvin's own sentences, quoted. Vaticanus answers. The exchange set here is the most famous thing Castellio ever wrote and it takes about twenty seconds to read.

Notice what he does not argue. He does not defend Servetus. He says elsewhere, flatly, that he is not a disciple of Servetus and does not hold his doctrine. He concedes the man was a heretic. What he refuses to concede is the equation... that the fire was an argument, that the killing was a defense of anything, that the thing which happened at Champel belongs in the category of theology at all.

Strip the doctrinal frame off it and the argument is the one every abolitionist has been making since. The state did not do what it claimed to be doing. It said it was protecting something. It killed a man. Those are not the same act and no amount of purpose makes them the same act.

Castellio died in December 1563 at forty-eight, under investigation, worn out, having spent his last years digging in a garden to feed himself. Calvin died five months later.

This is a new translation, made for this volume from the Latin of *Contra libellum Calvini*. The standard modern English translation of the 1554 anthology is under copyright and is not the basis of anything here.

FROM AGAINST CALVIN'S BOOKLET, 1554

Calvinus, quoted from his own defense:

We see now that the ministers of the Gospel must be ready to bear the cross and to undergo the hatred and the reproaches of the world, since the Lord has armed them with no weapons but patience. And nevertheless let kings be commanded to defend the doctrine of piety with their protection.

Vaticanus answers:

To kill a man is not to defend a doctrine. It is to kill a man.

When the people of Geneva killed Servetus, they did not defend a doctrine. They killed a man.

The defense of doctrine is not the business of the magistrate. What has the sword to do with doctrine? It is the business of the teacher.

VIII

I AM A MAN AND
I CAN BE DECEIVED

Friedrich Spee von Langenfeld was a Jesuit priest who spent part of the 1620s hearing the confessions of women condemned as witches in the German lands and walking them to the stake. He came out of that work convinced that he had accompanied innocent people to their deaths, one after another, and that the machinery which produced their confessions would produce a confession from anybody alive, including him.

He wrote the book anonymously. It appeared in 1631 at Rinteln, without his knowledge or consent, and again in 1632 at Frankfurt. Attaching his name to it would have finished him. His own order investigated him for it. He died in 1635 at forty-four, of plague caught while nursing wounded soldiers at Trier.

Cautio Criminalis is built as fifty-one *dubia*, doubts, each stated as a question and then taken apart. It is not a book about witchcraft. Spee grants in the first doubt that witches exist, because denying it would have ended the argument before it started, and then spends the remaining five hundred pages demonstrating that the procedure used to find them cannot distinguish a witch from a farmer's wife with an enemy in the next house.

The passages set here are the ones that are not about witches at all. They are about what happens to a legal system when the crime is declared exceptional. Spee's German judges argued that because witchcraft was a *crimen exceptum*, the ordinary safeguards did not apply: no advocate, no defense, torture on thin evidence, confession accepted as proof. Every one of those arguments is alive in American capital practice under different names. Death is different, so the rules are different, so the review is

narrower, so the exception swallows the protection it was carved out of.

The heart of it is the eleventh doubt, where Spee stops arguing and testifies. As far as I can tell it is the first time in European literature that a man who stood beside the condemned wrote down what he concluded from standing there.

This is a new translation, made for this volume from the Latin of the second edition, Frankfurt, 1632. The only complete modern English translation is under copyright and is not the basis of anything here.

FROM THE AUTHOR'S PREFACE

I have addressed this book to the magistrates of Germany. That is, to the ones who are not going to read it, and not so much to the ones who are.

Here is the reason. Any magistrate careful enough to think he ought to read what I have written about witch cases already possesses the thing the book was written to supply, namely care and diligence in understanding these cases. So he has no need to read it or to take anything from it. But the man so careless that he will neither read such things nor attend to them is the man for whom it is desperately necessary to read this book and learn from it to be thorough.

So let those read who are not going to read. And those who are, let them not read at all.

Still, whether a man intends to read this book or not, I would ask one thing. Let there be nobody who does not at least read the last doubt in it and weigh it in his own mind. Indeed to read that one first, before all the rest, would be neither useless nor out of order.

DOUBT VII. WHETHER THIS SHARP METHOD CAN ROOT OUT THE EVIL

However much the princes burn, they will never burn it out unless they burn everything. They lay their own lands waste worse than any war does,

and they accomplish not a particle. The thing is to be wept over in blood.

DOUBT VIII. ON THE CARE PRINCES OWE

We see a process against witches, once begun, drawn out over years, and the number of those to be punished so swollen that whole villages are consumed to the foundation. Nor is anything else accomplished by it, except that the books are filled with the names of still others, so that if the thing is pressed on stubbornly there appears to be no end of the burnings until the whole region has been emptied out. And no prince has ever been found who did not eventually have to break it off. Every one of them down to this day has made an end. Not one has found one.

I hear that in certain places a fixed sum is settled on the salary of the lawyers and inquisitors whom princes appoint to this business of witches, reckoned by the number of the accused. Four or five thalers a head, for example.

Who does not see, on this ground alone, how much vigilance is needed, so that the hope of gain does not corrupt the process? For each man will be thought guilty all the more readily the better it suits somebody's purse that the number of the accused be larger rather than smaller. The thing is hard and dangerous. We are not all of us saints, nor of so unshakable a mind that some heat of acquisition will not loosen it and carry us sideways, at least when we are tempted.

DOUBT IX. WHETHER A PRINCE DISCHARGES HIS CONSCIENCE BY LEAVING IT TO HIS OFFICIALS

A charming arrangement. The prince frees himself from care and close attention and shifts it onto the conscience of his officials. The officials free themselves in turn and shift it onto the conscience of the prince. A into B, and B into A.

The prince says: let the officials see to it. The officials say: let the prince see to it.

What sort of circle is this? And which of the two will answer to God? For when this one has seen to it, and that one has seen to it, nobody has

seen to it.

I say that among all the punishments and miseries of prisoners, this one is the greatest, that they are deprived forever of the sight of princes. They are thrown into a corner where no ray from that quarter ever reaches them, except through other men's eyes, which is to say through tinted glass, which gives the light and the object whatever color the glass itself happens to have.

Let the prince therefore inquire into the particulars.

Whether the prisons are visited, and how often. Whether they are filthier than custody requires. Whether some of the accused lie whole years in cold and filth without a hearing, so that they beg for an end either to their chains or to their lives. What the manner and the measure of the torture is. What manner of questioning is used. What restraint and skill the priests have who are brought in. Whether a defense is open to every prisoner. Whether there are complaints among the people about the commissioners. Whether these men are greedy, or inhuman.

Whether among them all there is a single one who, before he has looked into the matter, leans to the side of the accused rather than to the other. Whether there is one who has ever given any sign that he would rather find an innocent person innocent than find a guilty one guilty. Whether there is one who, when a prisoner turned out to be innocent, was not annoyed but glad.

Let him ask also whether any of the accused have died in prison, and what was done with them. Whether the body was buried under the gallows, as proof that the person left this life by a bad death.

DOUBT XI. WHETHER INNOCENT PEOPLE HAVE IN FACT BEEN CAUGHT UP

If the reader will grant me anything, I confess that I myself accompanied a number of women to death in past years, in various places, about whose innocence I waver as little now as there was ever any effort, any almost excessive industry, that I did not apply to uncovering the truth.

Curiosity drove me. Why should I pretend otherwise? It carried me almost past the proper limit, because in a matter so uncertain I wanted to know something certain. And I found nothing anywhere but innocence.

Having satisfied myself of that innocence by arguments neither few nor trifling, and being nevertheless forbidden, for certain reasons, to intervene in the judgment, it is easy enough to estimate with what feeling I was present at deaths so pitiable.

I am a man and I can be deceived. I will never deny it.

But I have dealt long and often with those prisoners, inside and outside the seal of confession. I have turned their souls over in every direction. I have used every help and counsel, divine and human, that I could reach. I have gone through the evidence and the records. I have discussed the cases with the judges themselves as far as the seal allowed. I have weighed everything with care and argued out every single argument within my own mind.

And after all of that I could judge no otherwise than that the women who were reckoned guilty were free of the crime.

I do not think I am being careless if I find it hard to believe that I was wrong.

I know men, learned and religious, who handled these same cases for some time and who said that they not only feared this but had no doubt of it at all. I know a prince who, having pressed an inquisition against witches for a while, asked the priest who cared for the consciences of the condemned and led them out to execution whether he seriously believed that some of them were truly innocent and had been swept off with the rest. The priest drew his shoulders together and answered honestly that he had no doubt of it whatever, and that on the salvation of his own soul he could say nothing else.

That answer went to the prince's heart. He stopped at once and forbade his men to go any further.

Our lawgiver Christ prescribes it plainly in the parable of the tares. The servants said to the householder: shall we go and gather them up? And he answers, *No. Lest while you gather the tares you root up the wheat along with them.*

Note that it does not say *lest you root up*. It adds the word *perhaps*. Lest perhaps you root up.

By which he teaches two things. First, that one must abstain from tearing out the tares if the wheat must come out with them. And second, that one must abstain if there is merely the danger of the wheat coming out with them, which is what the added word indicates.

He draws no distinction here between a danger that arises through the fault of the servants and one that arises without it. He says simply and absolutely that on account of this danger there must be no uprooting.

It is better to let thirty guilty men go, and more than thirty, than to strike down even one who is innocent. Let the sword be so balanced against the wicked that it does not come down on innocent necks as well.

DOUBT XVII. WHETHER A DEFENSE IS TO BE ALLOWED

I am ashamed of the question. But the iniquity of our times wipes the shame away.

Men without skill, and worse, men with malice, hold that because this crime of witchcraft is an excepted crime, every defense whatever must be cut off. Let the reader hear how they proceed.

Somebody accuses me of theft. This is a great stain on my name. So these learned and excellent men at once allow me to defend myself and wash the stain off, and if I cannot manage it myself, to choose an advocate who will do it for me.

Another accuses me of adultery. The stain is greater. So they still allow me to wash this one off as well.

A third accuses me of witchcraft. This is the foulest and the largest stain of all. So now they forbid me to defend myself or to wash it off, and they supply the reason: that the stain is the foulest, the crime the most atrocious and the most deadly, and therefore must not be washed off at

all.

Who would not groan aloud at reasoning so magnificent?

It is ridiculous to shout that the crime of witchcraft is an excepted crime before it has been established that the prisoner is guilty of it. Let it be excepted. Let it be atrocious. Let it be as deadly as you please. What follows, if the person in custody denies being subject to it? If she has the crime, then by all means say it is excepted and proceed as one is permitted to proceed in excepted crimes. But whether she is bound by that crime is the very thing still in question. So the magnitude of the crime is brought forward absurdly.

It belongs to natural right that a full and proper defense be denied to nobody, and the best defense that can be had. So much so that a man who cannot defend himself should be defended by another, whoever seems most capable of it. And what belongs to natural right must be observed in excepted crimes exactly as in unexcepted ones.

If natural right grants that I may not be prevented from defending myself against the stroke of a knife, then much less may I be prevented from defending myself against the stroke of a cannon. From which it follows that if I have a right by nature to defend and clear myself of a lesser charge, I have all the more right to defend and clear myself of a greater one, and above all of one as atrocious as witchcraft.

It follows further that the larger the evil and the crime laid against me, and the more I must drive it from myself, the better and more suitable the means of defense that ought to be granted me, and the better and abler the advocates.

AFTERWORD

Eight voices. Nineteen hundred years. Nothing accumulates.

Akiva was flayed to death by the Romans. Aśoka's empire came apart within fifty years of his death and his pillars stood unread for two thousand, because nobody could make out the script until a clerk of the East India Company cracked it in 1837. Augustine watched the judge he had written to get executed on a charge nobody proved. Nicholas wrote to one khan, and the church he led went on to build the Inquisition on top of the letter.

Chelčický was buried so thoroughly that a Russian novelist had to dig him up four centuries later, and most of his book is still only in Czech. More went to the block himself in 1535, having first sent other men to the fire. Castellio published under a false name in a false city, and the second book was too dangerous to print at all; he died worn out at forty-eight with the manuscript unpublished, and it stayed unpublished another forty-nine years. Spee published without his name on it because his name would have killed him, and died at forty-four nursing soldiers through a plague.

That is the record. Nearly everyone in this book was either killed by a state, investigated by one, or ignored by one, and two of them managed all three.

I keep thinking about the Cardinal.

He is the only man at that table who does not laugh the argument off, and even he does not accept it. What he says is: we have never tried it, so let us try it on one man, and if it fails we can always still hang him. That is the most generous thing the best-placed man in England could produce in 1516. Keep the rope in the room. Run the experiment. If mercy does not work out, the gallows will still be standing.

Five hundred years later that is roughly where we are. Every moratorium in every state has been built exactly like Morton's proposal. Suspend it, study it, keep the chamber maintained. Arkansas has a chamber. It has always had a chamber. The drugs expire and they buy more.

And Aśoka is the same shape, twenty-two centuries earlier and with more power behind it. He does not abolish. He inserts three days. That is a man with absolute authority over a subcontinent finding that the most he can do is slow the machine down and give the condemned time to settle his accounts.

So I am not going to end this book by telling you these people won, because they did not, and the ones who came after them did not either, and I have stood in enough parking lots to know what winning would look like and I have never seen it.

Here is what I want to say instead.

Every one of these arguments was made by somebody with no evidence it would work. The Jains had no state. Akiva had no movement. Aśoka had an empire and could only buy three days. Augustine had one letter and a judge in a hurry. Nicholas had a warlord who had already done the killing. Chelčický had a farm. More had a dinner party and a job he would eventually be executed for. Castellio had four months and a fake printer. Spee had a stack of paper he could not sign.

None of them got to see anything change. They said it because it was true, and they said it into rooms that were not going to do anything about it, and then they died.

The saying is not instrumental. That is the whole lesson of the pre-modern record. You do not make the argument because it will work. You make it because a person is going to be killed and somebody in the room should be on record objecting.

Spee wrote that he could not stop believing the women were innocent, that he was present at their deaths anyway, and that he was a man and could be deceived but did not think he was. I have read that paragraph more times than I can count. I have thirteen of those on my own record

now. Thirteen times I have been in the room and it did not work.
Get in the room anyway.

Jeff Hood

DEFINITIONS AND TERMS

Ahiṃsā. Non-injury. The refusal to harm any living thing, shared across the Jain, Buddhist and Hindu traditions and pressed furthest by the Jains, who admit no exception for the guilty, for war, or for the state. It is the oldest continuous argument against the executioner in any language.

Daṇḍa. The rod, and by extension the king's power to punish. The Hindu *daṇḍa* literature holds that without it the strong would devour the weak, which is the deterrence argument in its earliest surviving form. It runs directly against *ahiṃsā* in the same books, and the Mahābhārata never resolves the two.

The Three Days' Respite. Aśoka's order in the Fourth Pillar Edict, c. 243 BCE, granting three days to men already condemned and lying in prison. The time is for relatives to plead with the officers, and for the condemned man, if nobody will plead for him, to give alms and keep a fast. It is at once the earliest recorded stay of execution, the earliest clemency window, and the only such order that provides for the prisoner's own business rather than the state's.

Sanhedrin. The rabbinic court. A capital case required twenty-three judges, two eyewitnesses to the act itself, and a formal warning issued to the accused beforehand and acknowledged by him. Circumstantial evidence was inadmissible. A unanimous guilty verdict acquitted, on the theory that a court in which nobody could argue for the defendant had not done its job.

Circumcellions. Militant Donatist bands in Roman North Africa, drawn largely from the rural poor, who attacked Catholic clergy and property. The men Augustine wrote Letter 133 to save had beaten one priest and killed another.

Retaliation in Kind. The principle that punishment should mirror the injury.

It is what Augustine feared Marcellinus would apply: the eye for the eye, the finger for the finger, the death for the death. The argument against it is the oldest continuous thread in abolitionist writing and the one that reappears in every section of this book.

Intercession. A bishop's formal appeal to a civil magistrate on behalf of a condemned person. In late antiquity it was an accepted part of the office and carried real force. It is the direct ancestor of every clemency petition filed since, and of everything a modern spiritual advisor does in the last week.

Coerced Confession. A statement obtained by force. Nicholas I dismantles it in 866 in a single sentence: a confession must be given freely, not dragged out by violence. Spee returns to the same ground seven hundred and sixty-five years later, having watched torture manufacture confessions to a crime he doubted anyone had committed. Neither man was heeded, and the modern research on false confession says exactly what they said.

The Donation of Constantine. A forged eighth-century document purporting to record Constantine's gift of imperial authority to the papacy. Chelčický believed it authentic, as everyone did, and built his whole account of the church's corruption on it. Lorenzo Valla proved it a forgery in 1440, within three years of Chelčický writing. Chelčický never heard. His historical premise was wrong and his conclusion about the fusion of church and sword was right.

The Just War. The doctrine, taken from Augustine and formalized by Aquinas, that a war is lawful if it has legitimate authority, just cause, and right intention. Jakoubek of Stříbro offered it to Chelčický in 1419 as warrant for Hussite arms. It is the same structure that underwrites every argument for a lawful execution: the right authority, the right cause, the right intention, and a dead man at the end of it.

Enclosure. The conversion of common and arable land into fenced sheep pasture in Tudor England, which drove tenants off the land in large numbers. More's charge is that enclosure manufactured the thieves the

gallows then consumed, which makes his the earliest structural argument in the abolitionist canon.

Gibbet. The frame from which the hanged were suspended, often left standing with the body on it. Twenty on one gibbet is the lawyer's boast at the Cardinal's table, offered as evidence that the system was working.

Extreme Justice Is Extreme Injury. *Summum ius, summa iniuria*, a Roman legal maxim More puts in Hythloday's mouth. Punishment pursued to the limit of what the law permits stops being justice and becomes its opposite. It is the ancestor of every proportionality argument in modern Eighth Amendment litigation.

The Polylerites. More's invented people, whose thieves make restitution, work in public, keep their families, wear a distinguishing mark, and may earn their freedom back. The first sustained description in English of an alternative to the gallows, and the ancestor of every argument that the sentence should aim at repair.

Heresy. Doctrinal error held obstinately. It was the charge that burned Servetus at Geneva in 1553 and the pretext for the trials Spee sat through in the 1620s. Castellio's answer is not that Servetus was orthodox. It is that killing a man is not an argument about doctrine, whatever the killing is called.

Crimen Exceptum. The excepted crime. A charge held so atrocious that the ordinary safeguards are suspended for it: no advocate, no defense, torture on thin evidence, confession taken as proof. Spee's whole book is an attack on the category. Its modern descendant is the claim that death is different, and therefore the rules are different, and therefore the review is narrower.

The Tares. The parable at Matthew 13, where the householder forbids his servants to pull the weeds lest they uproot the wheat with them. It is the single most-cited scripture in this book. Chelčický uses it, Spee builds an entire doubt on it, and Spee catches what everyone else misses: the text does not say *lest you uproot*, it says *lest perhaps you uproot*. Risk alone is

enough to stop the hand.

Botched Execution. An execution that departs materially from its own protocol. Strangulation instead of a broken neck. Failed venous access. Prolonged consciousness. The category is old and it is not shrinking. Its persistence is not a defect in the machinery. It is the machinery.

FURTHER READING

Several of these works are extremely hard to reach in English, and two of them had never been printed in English at all before this volume. What follows is where to go for each, and where the walls are.

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ABOUT THE EDITOR

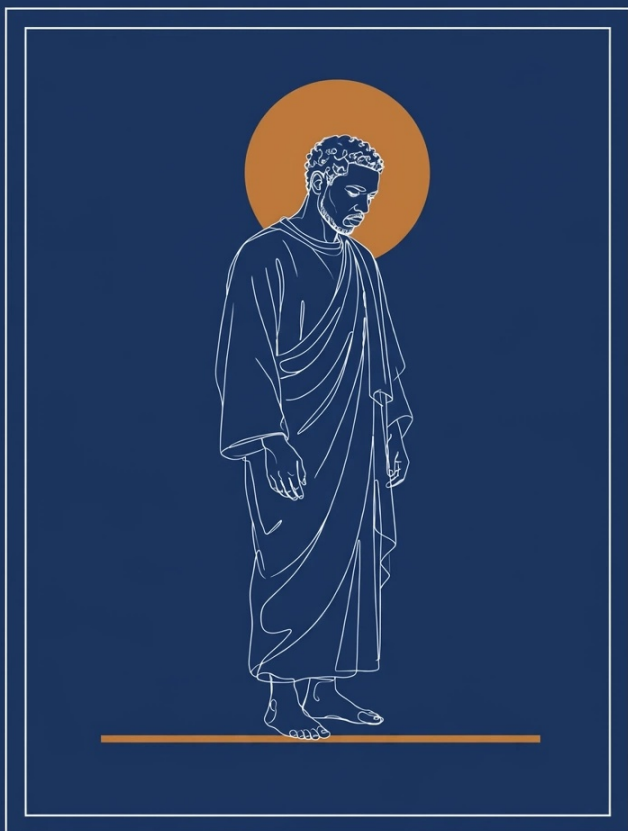
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executionintervention.org

THE ABOLITION CLASSICS. V. II



ON THE SACRED ANIMAL

Lactantius

DIVINE INSTITUTES, BOOK VI, CHAPTER 20

EDITED AND MODERNIZED BY
JEFF HOOD

ON THE SACRED ANIMAL

*A Modern Engagement with Lactantius Against the Death
Penalty*

L A C T A N T I U S

Divine Institutes, Book VI, Chapter 20

Edited and Modernized by
J E F F H O O D

T H E A B O L I T I O N C L A S S I C S

V . 2

The texts that built the case against the death penalty

C O M P L I C I T P R E S S

This edition © 2026 Complicit Press

Editorial matter and modernization © 2026 Jeff Hood

Original text: Lactantius, *Divine Institutes*, c. 304–313 CE.

This edition newly modernized from the Latin.

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Printed in the United States of America

First edition

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FOREWORD

Lactantius wrote his *Divine Institutes* around 304 CE, during the last and most savage of the Roman persecutions of Christians. Diocletian was burning churches, confiscating scriptures, and executing believers across the empire. The Christian community knew the machinery of Roman capital punishment not as an abstraction but as an immediate and ongoing fact of life. It was into that world — a world in which the state was actively killing people for their faith — that Lactantius wrote the most absolute anti-execution statement in the entire early church: it is always unlawful to put to death a man, whom God willed to be a sacred animal.

That sentence arrests me every time I read it. Not because it is surprising that a Christian writer would oppose executions — earlier voices had said similar things — but because of its absolute quality. Lactantius does not say it is usually unlawful, or unlawful in most circumstances, or that the execution of the innocent is wrong while the execution of the guilty might be permitted. He says always. And he extends the prohibition explicitly to prosecutorial participation: it makes no difference, he says, whether you kill a person with a sword or with words in court. To bring a capital charge is to participate in the killing. To watch an execution is to be implicated in it. The logic is uncompromising. He may not have held that line to the end of his life. The note that follows takes up that question. It does not touch the argument, which is true or it is not, whatever became of the man who made it.

I have spent years in the company of people awaiting execution. I have sat across tables from men whose deaths were scheduled by the state — men who had, in many cases, done terrible things, and who were also, in every case, human beings. Lactantius would have understood this immediately. His phrase for the human person is *sanctum animal*, a sacred animal. He builds it out of the Roman legal sense of what is *sanctum*: hedged about by divine sanction, protected from violation, not available to ordinary human hands. Rome reserved that protection for its tribunes and its walls. Lactantius extends it to every person alive. Whatever they have done, they belong to God in a way that places them beyond the state's authority to destroy.

He came to this position by watching. His argument moves from spectacle to theology: the problem with watching people die is not merely that it is unpleasant but that it corrupts the moral imagination. Once you have watched a person die and felt something other than grief, you have become a different kind of person. The capacity for cruelty is not inborn in its full expression. It is cultivated, slowly, by exposure to cruelty in settings that make it seem justified, entertaining, or inevitable.

This argument is as relevant in 2026 as it was in 304 CE. The gladiatorial arena is gone. But the appetite that animated it — the desire to see condemnation enacted on a human body, the satisfaction of watching the state demonstrate its power over life and death — has not gone anywhere. It appears in the crowds that gather outside prison walls on execution nights. It appears in the political rhetoric that treats the death penalty as a demonstration of toughness. It appears in the language of supporters who speak of executions as justice delivered and accounts settled. Lactantius looked at the Roman crowd in the arena and named what it was doing to them. The name still fits.

I have tried in this volume to bring Lactantius into direct engagement with our moment. The adaptation of Chapter 20 aims

FOREWORD

to make his argument available in contemporary language without softening its edge. The scriptural engagement that follows takes up the biblical foundations he assumed but did not fully develop. Together, I hope they constitute an argument that Lactantius himself would recognize: that the human person is a sacred animal, that no state possesses the authority to destroy what God has made, and that the capacity for mercy is the truest measure of justice.

Rev. Dr. Jeff Hood
North Little Rock, Arkansas
2026

A NOTE ON THIS EDITION

The Author

Lucius Caecilius Firmianus Lactantius (c. 250–325 CE) was a North African rhetorician who converted to Christianity and became one of the most important Latin Christian writers of the early church. Born in the Roman province of Africa, he was trained in rhetoric and appointed by Emperor Diocletian to teach Latin rhetoric in Nicomedia, the imperial capital. When the Diocletianic persecution began in 303 CE, Lactantius lost his position and turned his energy to writing. The *Divine Institutes*, his major work, was composed between approximately 304 and 313 CE and is the first systematic treatment of Christian philosophy and ethics written in Latin.

After Constantine's victory and the Edict of Milan in 313 CE, Lactantius was summoned to the imperial court and appointed tutor to Constantine's son Crispus. He spent his last years as a celebrated scholar and the preeminent literary voice of the new Christian empire. That arc — from the persecuted margins to the imperial center — creates a tension in his work that the scholarship has never resolved. The man who wrote that it is always unlawful to kill a human being later served as tutor to the son of an emperor who retained and expanded the use of capital punishment. There is no retraction anywhere in what survives. But the absolute position does not clearly survive either. His own later condensation of the *Divine Institutes*, the *Epitome*, no longer

forbids a just man to bear arms; it allows that courage is good when it is exercised for one's country and evil only when it is turned against it. And *On the Deaths of the Persecutors*, written after Constantine's victory, dwells with evident satisfaction on the violent ends of the emperors who had persecuted the church — divine judgment rather than judicial killing, and so not a formal contradiction, but not obviously the work of a man who still believed the sight of a death should produce nothing but grief. What can be said is this. The absolute prohibition belongs to the persecuted Lactantius. Whether the courtier still held it, we do not know.

His classical education gave him an extraordinary command of Cicero, Virgil, Lucretius, and the Stoic philosophers, and his Latin prose is among the most elegant in the patristic tradition. Jerome called him the Christian Cicero. He brought to Christian ethical argument a rhetorical sophistication the earlier apologists had not possessed, and his engagement with the philosophical tradition gave his arguments a reach beyond sectarian appeal.

The Original Text

The *Divine Institutes* runs to seven books. Book VI is titled *On True Worship* and addresses the practical dimensions of Christian moral life. Chapter 20 of Book VI is the climax of Lactantius's argument against the pleasures of spectacle — gladiatorial games, theatrical performances, and chariot racing — and contains within it the strongest anti-execution statement in the entire pre-Constantinian church. The argument moves from the observation of public spectacle to a theology of the human person, arriving at the conclusion that the human being is a sacred animal whom God has placed beyond the reach of human authority to destroy.

The decisive sentence — that it is always unlawful to put to death a man, whom God willed to be a sacred animal — appears in the middle of an argument about gladiatorial games. Lactantius is arguing that attendance at public killing corrupts the conscience, and from that argument he derives a principle about the nature of human life itself. The Latin is *sanctum animal*. The chapter also contains the claim that a just person may neither serve as an executioner nor bring a capital charge, because accusing a person of a capital crime is morally indistinguishable from carrying out the killing by hand. Immediately afterward comes his condemnation of the strangling and exposure of newborn children, which rests on the same foundation.

The standard scholarly translation is Mary Francis McDonald's rendering for the *Fathers of the Church* series (Catholic University of America Press, 1964). The present modernization works from the Latin text and from William Fletcher's nineteenth-century English translation, now in the public domain, updating the language, extending examples, and developing arguments that Lactantius states briefly.

The Modernization

This edition presents Chapter 20 in a fully modernized adaptation that preserves Lactantius's argument and its structure while rendering it in contemporary English. The examples remain his: the arena, the stage, the racecourse. They have not been replaced with modern equivalents, because the force of the argument depends on watching him watch a real crowd. What has been modernized is the language. What has been drawn out is the application he leaves implicit — that a citizen of a state that kills stands in the position of the spectator he describes.

Two editorial liberties should be named plainly. The chapter has been divided into four titled sections, which are not in the

original. And the argument's climax — the sacred animal, and the prohibition on killing newborns that follows from it — has been moved to the end, where in the original it sits in the middle of the discussion of spectacle. The order of his reasoning is preserved. The sequence of his paragraphs is not.

The scriptural engagement that follows Chapter 20 takes up the biblical tradition Lactantius assumed but did not develop in detail. He wrote for an audience that shared his Christian commitments and did not require extensive scriptural citation. A contemporary audience, particularly one in the American South where both Christian faith and capital punishment are deeply embedded in the culture, benefits from the fuller engagement with Scripture that his own argument implies. Its five sections move from the image of God through the teaching of Christ to the letters of Paul, the prophets, and the pattern of mercy that runs through both testaments. Where the argument being made is not Lactantius's own but belongs to a later figure in this series, that is said in the text.

The Series

The Abolition Classics is published by Complicit Press to make the texts that built the case against the death penalty available in contemporary language. Lactantius belongs in the series because he is the earliest and most absolute voice in the Western tradition to argue that capital punishment is categorically wrong. He precedes Beccaria by fourteen centuries. He precedes Rush by fifteen. He wrote from inside a church that was itself the target of the state's killing power, and he concluded that no person — not the guilty, not the dangerous, not the condemned — is available to the state for destruction. That conclusion is as radical now as it was in 304 CE.

*“It is always unlawful to put to death a man, whom God
willed to be a sacred animal.”*

— Lactantius, Divine Institutes VI.20, c. 310 CE

LACTANTIUS'S
ARGUMENT

I. On the Corruption of Spectacle

What follows is a modernized adaptation of Book VI, Chapter 20 of the Divine Institutes, composed by Lactantius around 310 CE. His argument moves from the ethics of spectacle to the theology of the human person. The argument is his. The language is ours.

There remains one final argument against the pleasures of the senses, and it must be stated plainly: every pleasure that corrupts the moral imagination must be resisted. This is not merely a counsel of asceticism. It is a claim about what happens to a human being when certain things are allowed to become normal.

The other animals use their senses only for what their nature requires. They see in order to find food and avoid danger. They hear in order to locate one another. They eat until they are satisfied, then stop. The most skillful Creator gave to human beings something different: pleasure without natural limit, pleasure capable of expanding beyond any boundary that nature provides. This was not an accident or a defect in our design. It was the condition that made virtue possible and necessary. Where there is no temptation, there is no virtue — only the absence of occasion for choice. God set pleasure before us as a domestic enemy, so that virtue might have something to contend with, and so that the discipline of resisting pleasure might form in us the character that no ease could produce.

Cicero understood part of this when he wrote that debaucheries, adulteries, and every disgraceful action are excited by the enticements of pleasure. When desire rules, temperance has no home. When pleasure reigns, virtue cannot exist alongside it. The philosophers who perceived this were right to warn against it. But then, having eloquently urged us to despise earthly things and lift our eyes to what is permanent and beautiful, they attended the public games anyway. They were delighted by them. They did not see the contradiction. The spectacles they enjoyed were among the greatest incitements to vice the world possessed — and the most powerful instrument for the corruption of whatever had been carefully built up in quieter hours.

The problem with spectacle is not merely that it wastes time or stimulates unworthy emotions. The problem is that it habituates. What we watch repeatedly becomes normal. What becomes normal becomes acceptable. What becomes acceptable eventually becomes desirable. The man who watches violence as entertainment will not feel the same horror at real violence that a man who has never watched it will feel. The capacity for cruelty is not inborn in its full expression. It is cultivated, slowly, by exposure to cruelty in settings that make it seem justified, entertaining, or inevitable.

II. On the Lawfulness of Killing

Consider the gladiatorial games specifically, because they make this argument unavoidable. A person who considers it a pleasure to watch a condemned man be put to death pollutes their conscience as completely as if they had secretly committed the homicide themselves. The name of the thing changes nothing about the act. They call it sport. They call it justice. They call it entertainment. The blood is real. The death is real. The person watching it and feeling pleasure at it has taken part in something that will leave a mark on them whether they recognize it or not.

Watch what actually happens in these places. The crowd — people who are, as individuals, capable of mercy and kindness and ordinary human sympathy — gathers to watch men fight and die. When the killing is going well, they applaud. When it is going slowly, they grow impatient and demand it be hurried. When a fallen man raises his hand in submission and asks for mercy, they often vote for his death rather than his sparing. They are not monsters in their private lives. But assembled together in this place, with the sanction of law and the cover of official ritual, they become capable of a collective cruelty that none of them would likely perform alone. Having been imbued with this practice over years, they lose their humanity. It does not return simply because the spectacle ends and they walk out into the ordinary street.

Can we honestly call these people just? Can we call them pious? When they see a man under the stroke of death, when they hear him begging for mercy, they not only permit the killing but

demand it. They give their votes for death with a casualness that should disturb us deeply. They are not satisfied with wounds; they want the wound that ends it. They order that men lying on the ground, already bleeding, be struck again to make certain the death is not feigned. They are angry if the dying takes too long. They call for fresh fighters when they grow bored with the ones already dying in front of them. And so, having practiced on the guilty, they do not spare the innocent either. What they learned in the slaughter of the wicked they carry out into every part of their lives.

This is what state killing trains people to become. And this is why it cannot be a matter of indifference whether a just person attends these spectacles or participates in their logic. The corruption is not accidental. It is the natural result of normalizing the deliberate destruction of a human life.

When God forbids us to kill, this prohibition is not limited to personal violence that the public law also condemns. It extends to all the ways in which killing is committed that the public law actually permits and celebrates. A just person will not serve in warfare, because the business of warfare is the destruction of human beings. A just person will not bring a capital prosecution, because there is no moral difference between ending a person's life with a weapon and ending it with a verdict. The act of causing death is what is prohibited, regardless of the instrument used or the procedure surrounding it.

Therefore, on this precept of God, there ought to be no exception at all. It is always unlawful to put to death a human being, whom God willed to be a sacred animal. Always. The word is not accidental. It does not mean usually, or in most cases, or except when the crime is terrible enough. It means that the category of justified state killing does not exist, because the human being whom the state proposes to kill belongs not to the state but to God, and God has not authorized the transfer.

III. On the Stage and Public Games

The same logic applies, with somewhat less ferocity, to every form of spectacle whose purpose is to stimulate the passions in directions that virtue cannot approve. The theatrical performances of our cities accomplish this by a different route than the arena but arrive at the same destination. Comedies make the dishonoring of women and the pursuit of shameful pleasures into subjects of laughter and entertainment. The more eloquently they are written, the more effectively they embed their content in the memory of the audience. Elegant verse is more adhesive than bad prose. The pleasure of the form carries the content past defenses that plainer expression would have met.

The tragedies place before their audiences the crimes of famous men: parricides, incests, betrayals, murders — all represented with full theatrical skill, all made vivid and compelling and emotionally engaging. And what effect does this have on the person who spends their evenings in such company? What happens when the young and the impressionable see that these things are portrayed without shame and watched with pleasure by everyone around them? They are told, without words, that these things belong within the range of what human beings do. They are given templates for their own imagination that they did not seek and cannot easily refuse.

The chariot races produce their own form of madness — a collective frenzy in which the crowd becomes, for a time, something other than a collection of rational persons capable of considered

judgment. Those who came to watch become, by the power of the spectacle, a spectacle themselves. Their souls are hurried into mad excitement by the same velocity that drives the chariots. They leap from their seats, shout, are transported, forget themselves. This is not a small thing. A person who regularly loses himself in this way is being trained, systematically, in a particular relationship to his own rational capacity — a relationship of contempt.

All spectacles therefore ought to be avoided. Not only those that are obviously violent or obscene, but all that make a habit of pleasure at the expense of virtue. The breast must remain tranquil and peaceful if it is to be capable of the work that virtue requires. A mind that has been habitually handed over to excitement and stimulation is not available for the slow, quiet, demanding work of justice. And there is a further argument. Our games are not secular entertainments in any sense. They are festivals in honor of the gods, established for their birthdays or for the dedication of their temples. To attend them is to participate in the worship they represent. A person who celebrates the birthday of Neptune at the chariot races has not simply attended a sporting event. He has offered his presence as an act of devotion to a deity that is not the God he claims to serve.

IV. On the Sacred Animal

Everything I have argued arrives here. The corruption of the eye by spectacle, the hardening of the crowd, the prohibition on killing that admits no exception for the executioner or for the accuser — all of it rests on a single claim about what a human being is.

God breathes life into human beings. I do not offer this as a figure of speech. The human person is not self-created, not self-sustaining, and not the property of any government or legal system. The breath that animates them came from God and returns to God. The life they hold is not theirs to dispose of at will, and it is certainly not available for disposal by a state that did not give it and holds no authority over it.

There is a word in our law for a thing placed beyond the reach of ordinary human hands. What is *sanctum* is hedged about by divine sanction; to violate it is not a private injury but an offense against the God who guards it. Rome understood this well enough to make its tribunes inviolable and to put its walls under the same protection. I say that the human being is that. Not the tribune only. Not the temple only. The human being. A sacred animal — not because they have earned the status by their virtue or their innocence, and not because any ceremony has consecrated them, but because God willed it. The consecration precedes every human judgment about their worth, and it outlasts every one of them.

What follows is absolute, and I will grant no exception to it. If the human person is sacred — if they belong to God in this way — then no court, no legislature, no emperor, no assembly of citizens has the authority to destroy them. The power of the state reaches as far as the liberties it grants and withdraws, as far as the conditions of ordinary civil life. It does not reach what it did not give. It did not give life. It cannot take life.

Let no one imagine, then, that it is permitted to strangle newborn children, which is the greatest impiety. God breathes into their souls for life, and not for death. Those who destroy the newly born deprive of light a soul still innocent and simple, a light they did not themselves give. And those who expose their children — who abandon them to whatever happens and tell themselves they have not technically killed anyone — are not as different from killers as they wish to be. To arrange a situation in which death is the likely outcome is to take part in the death, whatever your own hands did or did not do.

The same principle governs the killing that courts perform. The state that executes a person tells itself it has not committed murder: the act was lawful, the person deserved it, the procedures were followed, the proper officials signed the order. I answer with one observation. The act is the same. A human being whom God made is now dead by the deliberate act of other human beings. No procedure alters the nature of that fact. No verdict authorizes what God has not authorized. The sacred animal has been destroyed, and every one who destroyed it — judge, accuser, executioner, cheering crowd — has trespassed against what belongs to God.

To those who sit in judgment, who bring the charges, who keep the prisons, who write the laws: I ask you to stop and hear this before you proceed. It is not an argument from sentiment. It does not ignore the gravity of crime or pretend that violence is not real. It is an argument about what a human being is, and

about whose authority runs over what God has made. The person standing in front of you, whatever they have done, is a sacred animal. They belong to God. God has not authorized you to destroy them. Therefore do not.

A S C R I P T U R A L
E N G A G E M E N T

I. The Image of God

Lactantius assumed a scriptural foundation for his argument that he did not fully develop. What follows engages the biblical tradition directly, tracing the claim that the human person is a sacred animal through the witness of both testaments.

The first and most fundamental claim of the biblical witness about the human person is that they are made in the image of God. The opening chapter of Genesis states this twice, with a deliberateness that cannot be accidental:

So God created humankind in his image, in the image of God he created them; male and female he created them.

— Genesis 1:27

The word translated image carries the sense of a physical representation — a likeness that stands in for the thing itself. In the ancient world from which this text emerged, the image of a god was that deity's representative presence in a particular place. The king was sometimes described as the image of the god, the one through whom divine authority was exercised in the earthly realm. Genesis democratizes the concept radically. Every human being, not only the king, bears the image of God. Every person is, in this sense, a representative of the divine presence in the world.

The implications for capital punishment are drawn out immediately after the flood narrative. The passage most frequently

cited in support of the death penalty concludes with a reason that is almost never quoted alongside it:

Whoever sheds the blood of a human, by a human shall that person's blood be shed; for in his own image God made humankind.

— Genesis 9:6

The reason given for the seriousness of murder — the image of God — applies with equal force to the person being executed. The murderer bears the image of God. The condemned person bears the image of God. If the image of God in the murder victim is the reason that murder is wrong, then the same image in the condemned person is a reason that execution is also wrong. You cannot invoke the divine image to condemn killing and then set it aside when carrying out the punishment.

Lactantius perceived this with absolute clarity. The human being is a sacred animal because God made them in God's own image. That image is not removed by crime. It is not erased by guilt. It is not forfeit to the verdict of any court. It belongs to the human person not because of what they have done or failed to do, but because of who made them and how. The state that executes a person destroys something that bears the image of God — and no law can authorize that destruction, because the image belongs to God, not to the law.

The Psalms return to this theme in language that extends it from creation to the present moment of every life:

For it was you who formed my inward parts; you knit me together in my mother's womb. I praise you, for I am fearfully and wonderfully made. Wonderful are your works; that I know very well.

— Psalm 139:13–14

The person on death row was knit together in their mother's womb by the same God who knit together the person they killed. The one scheduled to die was fearfully and wonderfully made by the same hands that made every other human being. This is not a sentimental claim. It is a theological one, and it is one the tradition has not consistently been willing to follow to its conclusion. Lactantius followed it. He arrived at always.

II. The Teaching of Christ

The teaching and conduct of Jesus Christ, taken seriously, make the death penalty impossible to justify within a Christian framework. Several moments in the Gospel narratives bear directly on the question. Each one deserves examination.

The most direct is the encounter with the woman taken in adultery, as recorded in the Gospel of John:

The scribes and the Pharisees brought a woman who had been caught in adultery; and making her stand before all of them, they said to him, "Teacher, this woman was caught in the very act of committing adultery. Now in the law Moses commanded us to stone such women. Now what do you say?" . . . When they kept on questioning him, he straightened up and said to them, "Let anyone among you who is without sin be the first to throw a stone at her."

— John 8:3–7

The religious authorities brought to Jesus a person whom the law required to be executed, and whose guilt was not in question — she had been caught in the act. Jesus declined to authorize the prescribed sentence. He did not dispute the law's formal requirement. He introduced a condition for its execution that no human being can meet: the person who throws the first stone must be without sin. Since no such person exists, no stone is thrown. The execution does not take place. Jesus does not explain this as a

one-time exception for a sympathetic individual. He states it as a principle. Who among you is without sin?

When Peter struck the servant of the high priest during Jesus's arrest, the response was immediate:

Suddenly, one of those with Jesus put his hand on his sword, drew it, and struck the slave of the high priest, cutting off his ear. Then Jesus said to him, "Put your sword back into its place; for all who take the sword will perish by the sword."

— Matthew 26:51–52

Even in the moment of his own arrest — a moment that would lead directly to his execution — Jesus refused to authorize violence. He healed the ear that had been cut. He insisted the sword be sheathed. And he stated a principle that applies to capital punishment as directly as it applied to Peter's defense of an innocent man: the logic of the sword perpetuates itself. Those who take it up do not escape it.

The words Jesus spoke from the cross are among the most remarkable in the entire Gospel tradition:

Then Jesus said, "Father, forgive them; for they do not know what they are doing."

— Luke 23:34

He was being executed. The people carrying out his execution — the soldiers, the officials, those who had called for his death — were, at the moment he spoke these words, actively engaged in killing him. And he asked for their forgiveness. Not after it was over. Not when it was safe. In the moment of the act itself. If the one being executed can forgive those who execute him, the tradition that claims to follow this person must grapple with what it means to be among those who execute.

And there is the passage the abolitionist tradition has returned to more often than any other, quoted here in the longer form in which it circulated for centuries:

But he turned and rebuked them, and said, "You do not know what spirit you are of; for the Son of Man has not come to destroy the lives of human beings but to save them."

— Luke 9:55–56

The disciples had asked Jesus to call down fire from heaven on a village that had not welcomed him. His response was a rebuke and a statement of purpose: I have not come to destroy human lives but to save them. Benjamin Rush, arguing against the gallows fifteen centuries after Lactantius, wished these words formed the motto of every nation on earth. They encompass every duty to preserve, restore, and prolong human life. They stand against war. They stand against execution. Any government that claims to operate within a Christian moral framework must answer to them.

After his resurrection, Jesus instructed his disciples to preach the gospel of forgiveness beginning at Jerusalem — the city where his killers still lived. He did not send them to demand justice against those responsible for his death. He sent them to offer forgiveness. The direction of the gospel is always away from vengeance and toward reconciliation. A church that loses sight of this has lost something central to its founding impulse.

III. The Letters of Paul

Paul's letters are the source most frequently cited in support of capital punishment within the Christian tradition, particularly Romans 13. That passage deserves careful reading:

Let every person be subject to the governing authorities; for there is no authority except from God, and those authorities that exist have been instituted by God . . . it is the servant of God to execute wrath on the wrongdoer. For this reason you also pay taxes, for the authorities are God's servants, busy with this very thing.

— Romans 13:1, 4b–6

The argument that this passage authorizes capital punishment overlooks several things. First, Paul wrote these words under a Roman imperial government that was actively persecuting Christians — the same government that would eventually execute him. He was not writing a theology of just governance. He was writing practical counsel to a community that needed to survive in a hostile political environment without provoking additional violence through open resistance. Second, the authority Paul describes as God's servant is described by its function of restraining evil, not authorized to do whatever the government decides to do. Third, Paul's own position on vengeance appears two chapters earlier, in unmistakable terms:

Beloved, never avenge yourselves, but leave room for the wrath of God; for it is written, "Vengeance is mine, I will repay, says the Lord." Do not be overcome by evil, but overcome evil with good.

— Romans 12:19, 21

Vengeance belongs to God. This is the explicit claim of Paul, drawing on Deuteronomy 32:35. The claim is not that vengeance is wrong and should not happen. The claim is that it belongs to God and must not be usurped by human beings or human institutions. When the state executes a person as an act of justice, it claims a prerogative Paul explicitly reserves for God. Benjamin Rush would put the point exactly this way in 1792, in the volume that stands beside this one in the series: to punish murder with death is “an usurpation of the prerogative of heaven,” and it makes no difference whether one person inflicts it or a whole community does. Lactantius had reached the same conclusion by a shorter road. Whether you kill with a sword or with a word spoken in court, the killing is the same killing, and it was never yours to do.

Paul’s letter to the Galatians pushes the argument further. Writing to a community about a member who has done something deeply wrong, he counsels not destruction but restoration:

Brothers and sisters, if anyone is detected in a transgression, you who have received the Spirit should restore such a one in a spirit of gentleness. Take care that you yourselves are not tempted.

— Galatians 6:1

The spirit of gentleness. The goal of restoration. The awareness that those who administer discipline are themselves not immune to failure. This is the moral framework within which Paul under-

stands the community's response to wrongdoing. It is not compatible with a framework that requires death as the appropriate response to the gravest offenses. The worst thing Paul can imagine has happened in the community he is addressing — and he says: restore. He does not say: destroy.

His letter to Philemon is the most personal and specific case in the Pauline corpus. Onesimus, an enslaved person, has apparently wronged the man who enslaved him and has run away — an offense for which Roman law authorized death. Paul writes to Philemon asking him to receive Onesimus back:

Perhaps this is the reason he was separated from you for a while, so that you might have him back forever, no longer as a slave but more than a slave, a beloved brother — especially to me but how much more to you, both in the flesh and in the Lord.

— Philemon 15–16

No longer a slave. A beloved brother. Paul is intervening directly between a person facing potential execution under Roman law and the person with authority over him, and he is asking for something more radical than mercy: a complete transformation of the relationship. Not sparing the condemned person as an act of charity, but recognizing him as a brother. The same logic applies to the death penalty. Not merely sparing the condemned as an act of mercy toward an inferior, but recognizing in them a sacred animal, a bearer of the divine image, a human being who belongs to God.

IV. The Voice of the Prophets

The Hebrew prophets are not primarily concerned with capital punishment as such, but they develop a vision of justice that is incompatible with the logic sustaining it. Their primary concern is with the justice administered by those in power toward those without it — and their consistent finding is that the powerful systematically fail this test.

Learn to do good; seek justice, rescue the oppressed, defend the orphan, plead for the widow.

— Isaiah 1:17

The prophetic tradition places the moral weight of justice on the side of the vulnerable, the condemned, the powerless. It does not primarily concern itself with the rights of the powerful to administer punishment. It concerns itself, over and over, with whether those who exercise power are using it for the benefit of those who have none. When Isaiah speaks against the religious and political establishment of his day, he accuses them not of being too lenient with criminals but of oppressing the poor and perverting justice in the courts:

Woe to those who make iniquitous decrees, who write oppressive statutes, to turn aside the needy from justice and to rob the poor of my people of their right, that widows may be your spoil, and that you may make the orphans your prey!

— Isaiah 10:1–2

The death penalty in every jurisdiction that has ever administered it has fallen disproportionately on the poor, the marginalized, the politically powerless, and — in the American context — on people of color. This is not a coincidence or an implementation problem that better procedure would solve. It is the structural reality of a penalty that depends on the discretion of those with power being exercised against those without it. Isaiah's denunciation of a legal system that writes oppressive statutes and robs the poor of their right is a denunciation of exactly this structure. The prophetic word against unjust courts is a word against the courts that have administered and continue to administer this penalty.

Micah's vision of what God actually requires is perhaps the most compact summary of the prophetic moral framework:

He has told you, O mortal, what is good; and what does the Lord require of you but to do justice, and to love kindness, and to walk humbly with your God?

— Micah 6:8

Justice. Kindness. Humility before God. These three are the prophetic measure of a life and of a community. The death penalty fails all three. It fails justice because it falls arbitrarily and disproportionately on the vulnerable. It fails kindness because it forecloses every possibility of restoration and mercy. And it fails humility before God because it claims for human institutions a power over human life that belongs to God alone.

Ezekiel's vision of God's justice contains what may be the most direct prophetic challenge to retributive punishment:

Have I any pleasure in the death of the wicked, says the Lord God, and not rather that they should turn from their ways and live? . . . For I have no pleasure in the death of anyone, says the Lord God. Turn, then, and live.

— Ezekiel 18:23, 32

God takes no pleasure in the death of the wicked. This is the prophetic testimony. It is not that the death of the wicked is regrettable but necessary. It is that God actively does not want it. God wants the wicked to turn and live. A justice system premised on the destruction of those who have done the worst things is therefore not aligned with the divine will as the prophets understand it. It is moving in the opposite direction from where God is moving.

V. The Pattern of Mercy

The clearest picture of how God responds to murder stands at the very beginning of the biblical narrative. It is the story of Cain.

Then the Lord said to Cain, "Where is your brother Abel?" He said, "I do not know; am I my brother's keeper?" And the Lord said, "What have you done? Listen; your brother's blood is crying out to me from the ground!"

— Genesis 4:9–10

Cain has committed the first murder in the biblical narrative. God confronts him with it. The blood of the victim cries out from the ground — the victim's death is not ignored, not minimized, not treated as a matter of indifference. And then God pronounces judgment:

And the Lord put a mark on Cain, so that no one who came upon him would kill him. Then Cain went away from the presence of the Lord, and settled in the land of Nod, east of Eden.

— Genesis 4:15b–16

The judgment does not include execution. Benjamin Rush, examining this passage in 1792, put the question as sharply as it can be put: does Adam, the natural legislator and judge of the world, put his son to death for what he has done? He does not. Neither does God. Instead God places a mark on Cain that forbids anyone

from killing him, declaring that whoever does so will face seven-fold vengeance. God is the one who declines to execute the first murderer, and God is the one who actively protects him from execution by others.

The conclusion is simple and devastating. If God, the injured party, the one whose gift of life was violated by Cain's act, declined to execute Cain — and in fact protected him from being executed — then on what authority does the state claim the right to execute those who come after him? The first response to the first murder in human history was not execution. It was exile, conscience, labor, and a mark of protection. If that is how God responded to murder at the beginning, it tells us something about what God considers an adequate response to murder now.

The same pattern appears throughout the biblical narrative. Moses killed an Egyptian and fled. David arranged the murder of Uriah and faced divine judgment — but not execution. The Psalms are full of people crying out from situations of condemnation and injustice, appealing to a God who is described repeatedly as the one who releases the prisoner and lifts up the fallen:

The Lord sets the prisoners free; the Lord opens the eyes of the blind. The Lord lifts up those who are bowed down; the Lord loves the righteous.

— Psalm 146:7b–8

The God of the Psalms is persistently described as the one who takes the side of those the legal system has condemned. This does not mean God is indifferent to crime or to the suffering of victims. It means that God's particular concern is for those who are powerless before human systems of judgment — and that the claim to speak for this God while administering those systems requires extraordinary humility and caution.

The most sustained biblical account of what justice looks like when it is finally and fully administered is the vision of Isaiah 61,

which Jesus reads aloud in the synagogue at Nazareth and declares to be fulfilled in his own ministry:

The Spirit of the Lord God is upon me, because the Lord has anointed me; he has sent me to bring good news to the oppressed, to bind up the brokenhearted, to proclaim liberty to the captives, and release to the prisoners.

— Isaiah 61:1

Liberty to the captives. Release to the prisoners. This is the vision of justice that the Messiah enacts. It is not a vision in which justice is served by keeping people captive or by executing them. It is a vision in which the messianic work consists precisely in undoing the structures that condemn and confine. When Jesus reads this passage and says that today this scripture has been fulfilled in your hearing, he is claiming the vision as the definition of his own work. A church that follows this person is called to the same work. It is called toward the prisoner, not toward the execution chamber.

The abolitionist tradition has always written past its own generation. Rush, at the end of his argument, gave up on persuading the people around him and addressed the ones who would come after — a generation with fuller knowledge and better moral formation, who would look back on the gallows with the contempt he already felt. Lactantius had done the same thing without announcing it. He wrote his absolute prohibition into a systematic work built to outlast the emperor who was burning his church. It outlasted him.

They were addressing us. We have the fuller knowledge. We have the research, the exonerations, the documented racial disparities, the wrongful convictions. We have seventeen centuries of additional evidence that capital punishment does not do what it claims to do and does great harm in the process of failing. We have all of it. What we have not yet had is the will to act on it.

The sacred animal is waiting. It is always unlawful to put them to death. That was true in 310 CE. It is true now. The question is whether we will finally, at this distance from Lactantius's desk, find it in ourselves to say so.

DEFINITIONS AND TERMS

Lactantius (c. 250–325 CE). North African rhetorician, convert to Christianity, and author of the *Divine Institutes* — the first systematic treatment of Christian philosophy and ethics in Latin. Appointed by Diocletian to teach Latin rhetoric at Nicomedia, he lost the position when the persecution of Christians began in 303 CE. His statement in *Divine Institutes* VI.20 is the strongest abolitionist claim in the entire pre-Constantinian church and one of the foundational documents in the intellectual history of opposition to capital punishment. Jerome called him the Christian Cicero.

Sanctum animal (the sacred animal). The phrase Lactantius uses for the human person: an animal that God has made sacred. In Roman usage, what is *sanctum* is protected by divine sanction — hedged about, inviolable, not available to ordinary human hands. Rome applied the protection to its walls and to the persons of its tribunes. Lactantius applies it to every human being without exception, not because they have earned it and not because any ceremony has conferred it, but because God willed it. No human authority — including the state — possesses the right to destroy what God has made inviolable. This is the theological foundation of his abolitionism and the concept from which this volume takes its title.

Divine Institutes (Divinae Institutiones). The major work of Lactantius, composed c. 304–313 CE in seven books. It is the first comprehensive Latin-language treatment of Christian philosophy, addressing the errors of pagan religion, the nature of justice, the ethics of worship, and the moral life. Book VI, titled *On True Worship*, contains the argument against spectacle and capital punishment that is the subject of this volume. Chapter 20 of Book VI contains the most famous anti-execution statement in ancient Christian literature.

The Diocletianic Persecution. The last and most severe persecution of Christians by the Roman imperial government, beginning in 303 CE under Emperor Diocletian and continuing until approximately 311 CE. Churches were burned, scriptures confiscated, clergy arrested and executed, and Christians required to sacrifice to the imperial gods under penalty of death. Lactantius wrote the *Divine Institutes* during this persecution, making his argument against capital punishment in a context where the state was actively executing people for their religious beliefs. His position was not theoretical.

Imago Dei (the image of God). The theological claim derived from Genesis 1:26–27 that human beings are created in the image and likeness of God. The concept is the primary theological foundation for the dignity of the human person in the Christian and Jewish traditions. Lactantius's claim that the human person is a sacred animal is his version of the argument: the human being bears the divine image, is made inviolable by it, and therefore cannot be destroyed by any human authority without trespassing against God.

Lex talionis. The ancient legal principle of proportional retaliation: an eye for an eye, a tooth for a tooth, a life for a life. It appears in Exodus 21:24, Leviticus 24:20, and Deuteronomy

19:21, and it is the foundational scriptural argument for capital punishment in the Jewish and Christian traditions. Lactantius does not engage the principle directly. He forecloses it, by insisting that the precept against killing admits no exception whatever. His position stands in the same line as Jesus's own engagement with the principle in the Sermon on the Mount: you have heard that it was said, an eye for an eye, but I say to you, do not resist an evildoer (Matthew 5:38–39).

Romans 13. The passage in Paul's letter to the Romans (13:1–7) that describes governing authorities as instituted by God and authorized to bear the sword against wrongdoers. It is the most frequently cited biblical passage in support of capital punishment. The present volume argues that the passage must be read alongside Romans 12:19, that the authority Paul describes is functional and limited rather than absolute, and that it does not override the claim Lactantius makes: that the human person is a sacred animal and is therefore not available to the state for destruction.

The Edict of Milan (313 CE). The proclamation issued by Emperor Constantine and his co-emperor Licinius granting religious tolerance throughout the Roman Empire and ending the Diocletianic Persecution. Lactantius, who had written his most radical abolitionist arguments during the persecution, was subsequently brought to Constantine's court as tutor to the imperial family. The tension between his abolitionist theology and his service to a government that retained and expanded capital punishment has never been fully resolved by scholars.

FURTHER READING

Primary Texts by Lactantius

Lactantius. *Divine Institutes*. Translated by Mary Francis McDonald. *Fathers of the Church*, Vol. 49. Washington, DC: Catholic University of America Press, 1964. The standard scholarly translation of the complete *Divine Institutes* in English. Book VI, Chapter 20 is the essential text of this volume.

Lactantius. *The Minor Works*. Translated by Mary Francis McDonald. *Fathers of the Church*, Vol. 54. Washington, DC: Catholic University of America Press, 1965. Contains *On the Anger of God*, which argues that judgment belongs to God rather than to human institutions — a claim that supports the anti-execution argument of the *Divine Institutes*.

Lactantius. *Epitome of the Divine Institutes*. Translated by E. H. Blakeney. London: SPCK, 1950. Lactantius's own later condensation of the *Divine Institutes*, and the place where a softening becomes visible. Where the *Institutes* forbade a just man to serve in war at all, the *Epitome* permits courage exercised for one's country. It contains no retraction of the prohibition on capital punishment. It does not restate it either.

Lactantius. *On the Deaths of the Persecutors*. Translated by J. L. Creed. Oxford: Clarendon Press, 1984. Written after Constantine's victory, this work describes the deaths of emperors who

persecuted Christians as divine judgment. It creates real interpretive tension with the absolute anti-execution position of Divine Institutes VI.20.

On Lactantius

Bowen, Anthony, and Peter Garnsey, trans. *Lactantius: Divine Institutes*. Translated Texts for Historians 40. Liverpool: Liverpool University Press, 2003. A modern scholarly translation with extensive introduction and commentary. The most accessible entry point for contemporary readers.

Ogilvie, R. M. *The Library of Lactantius*. Oxford: Clarendon Press, 1978. Reconstructs Lactantius's classical sources and the intellectual tradition he was working within. Essential for understanding his engagement with Cicero and the Stoic philosophers.

Barnes, T. D. "Lactantius and Constantine." *Journal of Roman Studies* 63 (1973): 29–46. Examines the relationship between Lactantius and the emperor he served, and the chronology that places his most radical writing before that service. Essential for the biographical and political context.

On Early Christian Ethics and Capital Punishment

Swift, Louis J. *The Early Fathers on War and Military Service*. Message of the Fathers of the Church 19. Wilmington, DE: Michael Glazier, 1983. Collects the patristic evidence on killing and state service, and sets out the case that Lactantius grew less certain of his own absolutism once Christians began to hold power. The essential source for the question of whether he changed his mind.

Kreider, Alan. *The Patient Ferment of the Early Church: The Improbable Rise of Christianity in the Roman Empire*. Grand Rapids: Baker Academic, 2016. Examines how early Christians formed habits and practices distinct from the surrounding culture, including their relationship to violence and state power. Provides essential context for Lactantius's argument.

Garnsey, Peter. *Social Status and Legal Privilege in the Roman Empire*. Oxford: Clarendon Press, 1970. Documents how Roman capital punishment fell disproportionately on the poor and socially powerless — the pattern the prophetic tradition identified and that persists in contemporary capital punishment practice.

Related Volumes in This Series

Socrates. *The Apology*. As related by Plato. Edited and modernized by Jeff Hood. Complicit Press, 2026. The founding document of the tradition, and the only one written from inside the condemned person's own voice. Lactantius had read it. His absolute prohibition stands in direct continuity with it.

Beccaria, Cesare. *An Essay on Crimes and Punishments*. 1764. Edited and modernized by Jeff Hood. Complicit Press, 2026. The foundational Enlightenment argument for abolition, written fourteen centuries after Lactantius. Beccaria's secular social contract argument complements Lactantius's theological claim that the human person belongs to God.

Rush, Benjamin. *Considerations on the Injustice and Impolicy of Punishing Murder by Death*. 1792. Edited and modernized by Jeff Hood. Complicit Press, 2026. The American founding-era abolitionist argument, combining natural rights philosophy with Christian theology — the same combination Lactantius

FURTHER READING

employed fifteen centuries earlier, and the source of several arguments engaged in this volume.

Mittermaier, Karl Joseph Anton. *Capital Punishment*. 1865. Edited and modernized by Jeff Hood. Complicit Press, 2026. The empirical complement to Lactantius's theological argument: a systematic survey of the evidence that capital punishment does not accomplish what it claims to accomplish.

Darrow, Clarence. *An Eye for an Eye*. 1905. Edited and reset by Jeff Hood. Complicit Press, 2026. The companion fiction volume. Where Lactantius argues from theology, Darrow argues from the human face of the condemned.

CONCLUSION

To kill a man is not to defend a doctrine. It is to kill a man.

— SEBASTIAN CASTELLIO

Close these three books and count what you are holding: a Greek trial transcript, a Jain vow, a Buddhist emperor's pillar, a Hindu epic, a rabbinic tractate, a bishop's letter, a pope's reply to a warlord, a Bohemian peasant's book, an English humanist's imaginary republic, a Savoyard exile's pamphlet, a German Jesuit's confession, and a North African apologist's insistence that the human being is a sacred animal.

Eighteen centuries. Six traditions. Not one of them talking to the others.

And the same argument every time.

That should be the end of the discussion, and it is not, and the reason it is not is worth naming plainly. These texts did not fail because they were wrong. They failed because they did not gather. Each of them landed in a world with no place to put it. A sūtra in a monastery. An edict on a pillar. A letter in a bishop's file. A book suppressed in Basel. A pamphlet published anonymously by a priest who would have been destroyed if he had signed it — and who was nearly destroyed anyway.

What the next four omnibus volumes record is the invention of the missing thing: not a better argument, but a movement. Somebody to hand the argument to. A press, a society, a legislative committee, a newspaper, a lecture circuit, a magazine in Glasgow counting executions against murders. Beccaria's achievement in 1764 was not originality. It was distribution.

That is the honest shape of this history, and it should change how we read our own moment. We are not waiting for an argument. The argument arrived in the third century before Christ and has been on the table ever since, complete, tested, and unanswered. Aśoka gave three days. The Mishnah gave a court that would not kill. Lactantius gave *always*. Spee

gave the innocent. What we are waiting for is the same thing they were waiting for — enough people willing to carry it.

I have stood in the rooms where this is still being decided, one man at a time. I can tell you that nothing in those rooms has answered Castellio. The state has better chemistry than Diocletian and better paperwork than the Inquisition, and it has not produced a single new reason. It has only produced quieter ways of doing the old thing.

Nineteen more volumes follow this one. Every one of them is an argument these three had already made.

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