
Plato's Views on Capital Punishment

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Abstract

*Plato's theory of punishment distinguishes scientifically administered measures, which may or may not take the form of actual punishment designed to cure a criminal of his offence which is a disease of the soul, not something which is an inseparable part of the concrete criminal act. He is averse to retributive punishment which is designed merely to make the criminal suffer as a kind of primitive compensation for his crime. Plato does not commit himself to the view that all forms of punishment benefits the criminal as he reasons that only just punishment has this effect. Capital punishment in Plato's penology is reserved for the incurable and the bad men themselves would seem better candidates for this penalty than those who in spite of propensities to vice yet succeed in avoiding the greatest judgement. The mere infliction of suffering (*timoria*) makes people worse than they already were; they will not be cured or deterred as they will go from bad to worse, ultimately become incorrigible and bound to be executed as an example to others. Curing or rehabilitating the criminal in practice will mean the reshaping of his character to a pattern approved by the authorities. The death penalty is imposed for the worst offenders but in Plato's opinion it is not considered to be an extreme penalty. This paradox can only be understood when pondered through Platonic assumptions about morality, happiness and existence after death.*

I

The earliest discussion of the subject of capital punishment in Greek literature is found in the speech of Diodotus given in reply to Cleon's proposal that the Mitylenians be put to death. Diodotus' main argument was that death is an ineffective penalty. "Though I prove them ever so guilty, I shall not, therefore advise their death, unless it be expedient... I consider that we are deliberating for the future more than for the present... All, states and individuals, are alike prone to err, and there is no law that will prevent them; or why should men have exhausted the list of punishments in search

of enactments to protect them from evildoers? It is probable that in early times the penalties for the greatest offences were less severe, and that, as these were disregarded, the penalty of death has been by degrees in most cases arrived at, which is itself disregarded in like manner. Either then some means of terror more terrible than this must be discovered, or it must be owned that this restraint is useless" (Thucydides, 1968:152). This passage indicates that human nature cannot effectively be deterred by fear of death. When men venture on a precarious endeavour they are not inspired by fear of fatal consequences but by hope of successful achievement. Thus crime can be reduced, not by the severity of punishment but by careful administration and certainty of detection. In Plato capital punishment is of a purgatory nature and in his view death is a civic purging. It clears out the most heinous criminals when they are incurable and causes serious damage to the state. But Plato's word in the *Laws* and in various other passages come to mind that death is not the most severe punishment and in fact, it is the least of evils.

In Athens the social disruption that arose from wrongdoing and that necessitated punishment was viewed as a disease that had to be cured. The various periods that passed between the moments when a disease was recognised and cured were spent in a long process of negotiation and argument about desert and justice that led eventually to a judgement about how to reorder relationships within the city. The judgement itself, however, was not the final moment of the process of punishing, nor did it complete the cure and cleansing. Cure was achieved by the execution of a punishment that finalised a judgement and proved that social relations had been brought back to normal.

Plato addresses the subject of capital punishment in a number of his dialogues and quite extensively in the *Laws*. This dialogue is Plato's longest and also his most intensely practical work and contains his ripest comments on ethics, education and jurisprudence, as well as his one entirely non-mythical exposition of theology. This work is exceptionally rich in political and juristic wisdom and appears, indirectly, through its influence on the law of the Hellenistic age, to have exerted profound influence on the great system of Roman jurisprudence. It is obvious, even on a superficial reading, that the *Laws* has a more practical and less distinctive philosophical orientation than most other dialogues. Apart from anything else, we may refer to the amount of space devoted to detailed legislative proposals, something the Socrates of the *Republic* thought it unnecessary to deliberate (425C-E). There are other indications that the *Laws* may be intended for a different kind of audience. Of the three old men who take part in the conversation, the first one is the Athenian Stranger, the second one is Clinias a Cretan and the third one is Megillus a Spartan. The protagonist is the

Athenian Stranger and nearly all the talking is done by him. Although his companions are not as qualified to add anything original to the discussion the choice of their nationality is significant, since the main body of the *Laws* prepared for the model city of Magnesia is derived from the codes actually in force in Athens, Crete and Sparta. It is common ground that the *Laws* is a more practically oriented work than the *Republic* and that this practical orientation affects the treatment of almost all its topics. The difficulty is that of determining in what respects Plato believes that his earlier position was mistaken and in what respects he is merely suppressing earlier doctrines as irrelevant to his immediate purposes. Since Plato himself provides no explicit indications, one cannot expect to answer such questions by considering the *Laws* in isolation. (Stalley, 1983: 9-10).

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The objectives of punishment held by Plato and his contemporaries are the following:

- a) An orator will occasionally request that a penalty be imposed as a lesson to hold back the criminal from replicating his crimes and deter others from copying them.
- b) Sometimes courts were asked to penalize criminals to restrain them or bring them to their senses. While this may sound like the modern concept of reform or rehabilitation, it probably refers to more primitive notions - something like the demand that criminals be given a 'short, sharp shock'.
- c) The orators make frequent use of the concept of punishment "timoria" (τιμωρία). This has certain analogies with the concept of retribution, although it is evident that the orators were not supporting a retributive theory of punishment as propagated in modern times. Modern theorists view retribution as something neutral or impersonal advocating that it is right for those who have done wrong to suffer. The Greek orators, contrary to that, asserted that they are bringing prosecutions out due to personal vendettas and they appealed on juries to share their anger. (Stalley, 1983: 139-143).

Saunders (1991:351) alleges that Plato in the latter stage of his life redefined the aims of punishment to serve the following purposes:

- d) Appropriate compensation for the injured party.
- e) Satisfaction for the injured party, viewed as the pleasure of prevailing over an opponent.
- f) The improvement of the offender by deterrence.
- g) The improvement of society by deterrence and if necessary through the elimination of the offender by exile or death.

Plato in his *Laws* prescribes capital punishment for a wide range of offences including deliberate murder (871D), wounding a parent, brother or sister with intent to kill (877B-C), persistent atheism (909A), serious acts of impiety (910C-D), theft from temples (854E), theft of public property (942A), harbouring exiles (955B), waging private war (955C), taking bribes (955D) and obstructing the judgment of a court (958C). It looks as though these proposals would extend the use of capital punishment beyond what was existing in Athens.(Stalley, 1983: 137).

The discussion between irrational retribution and rational reform is central to Plato's analysis of punishment throughout his dialogues. In the *Protagoras* dialogue the sophist argues with Socrates pertaining to reformative punishment as follows: "*If you will think, Socrates, of the nature of punishment, (κολάζειν) you will see at once that in the opinion of mankind virtue (ἀρετήν) may be acquired; no one punishes the evil-doer under the notion, or for the reason, that he has done wrong, only the unreasonable fury of a beast acts in that manner. But he who desires to inflict rational (μετά λόγου) punishment (κολάζειν) does not punish (τιμωρείται) for a past wrong (παρεληλυθότος αδικήματος) which cannot be undone; he has regard to the future, and is desirous that the man who is punished, and he who sees him punished, may be deterred from doing wrong again. He punishes for the sake of prevention, (apotropes) thereby clearly implying that virtue is capable of being taught.* (323D-324B). Protagoras differentiates two kinds of punishment namely punishment that aims to reform and punishment that endeavours to remedy the past. He uses the word "kolazein" (κολάζειν) to refer to reformative punishment and "timoresthal" (τιμωρείσθαι) to denote retributive punishment. Furthermore it is evident that Protagoras disregards simple "timorid" and in doing so he rejects punishment as personal vengeance and also the types of supposedly impersonal retribution advocated by modern supporters of retribution. Socrates argues with Protagoras's analysis of why virtue is teachable, but never dismisses the dichotomy drawn between retributive and reformative punishment. Whereas as most people think that to be punished is to suffer something bad, Socrates contends that to suffer justice or to have something "just" done to one is to have something "beautiful" done to one. Hence the experience of "suffering justice" cannot be considered as unpleasant or evil but rather refers to having one's life enhanced by justice.

In his speech Protagoras also lays down penalties of death or exile for those evil characters who are incapable of acquiring justice. (322D, 325A-B). "*And he who rebels against instruction and punishment is either exiled or condemned to death under the idea that he is incurable-if what I am saying be true, good men have their sons taught other things and not this, do consider how extraordinary their conduct would appear to be*". In general, Protagoras's attitude is that punishment ensures that people will conform to

social rules and it therefore secures the good of the community as a whole. In the *Gorgias* and the *Republic* the emphasis is laid on the fact that injustice is bad, not only for society, but also for the unjust man himself. The unjust man is therefore like the sick man and punishment benefits him by curing his sickness. The emphasis here is on individual, rather than social, good. In Stalley's (1983: 140-141) view the two approaches are compatible in that punishment does good both to the individual, by curing him of injustice, and also to society by enforcing social rules.

An important aspect of punishment is expounded in the *Laws* when the Athenian Stranger pronounces the greatest judgement "dike" (*δίκη*) on those who behave badly. This judgement consists in their becoming like the wicked and so cutting themselves off from the company of the good (728B). "*Hardly anyone takes account of the greatest judgement, as it is called, on wrongdoing; "δίκην τῆς κακουργίας τὴν μεγίστην"* that greatest judgement is this, - this is to grow to resemble men who are wicked, and, in so growing, to shun good men and good counsels and cut oneself off from them, while seeking to attach oneself to the company of the wicked and follow after them". The Athenian Stranger continues by identifying firstly a genuine judgement that does good and the mere infliction of suffering which may do no good at all: "Consequently, this condition is not really a 'judgement' at all, because judgement and justice are fine things. It is mere punishment, (*τιμωρία*) suffering that follows a wrongdoing. Now whether a man is made to suffer or not, he is equally wretched. In the former case he is not cured, in the latter he will ultimately be killed to ensure the safety of many others" (*Laws* V 728C). According to Saunders (1988: 191) the absence of punishment (*τιμωρία*) will signify that a person is not deterred from crime and will go from bad to worse until he has to be executed as incorrigible, and as an example to deter others from inviting the same fate. But if is to suffer, he will become resentful and turn to crime again. "Judgement" is a scientifically designed measure to cure vice while retributive punishment is only the infliction of suffering.

III

Stalley (1995: 484) holds the view that the versions of punishment in Plato's *Laws* seem to run together ideas of deterrence, education and cure which to a current criminologist might seem separate. The crux of the matter is that Plato has credible reasons for advocating that punishment can play a vital role in a system devised not simply to modify the conduct of wrongdoers but also to improve their characters. There are other signs that the Athenian Stranger does not hold fast to his curative theory. This is apparent, for example, in his use of the death penalty which is supposed to be confined to the incurable or unreformed offenders. The Athenian Stranger takes this restriction in his

treatment of thefts from temples and public property (854D-E, 941E-942A). Citizens who commit these offences after the education they have received should be executed as beyond cure, but slaves and foreigners may be allowed to live. The rationale of this distinction is obvious and it is also reasonable to assume that those who remained impenitent after three convictions for perjury are beyond cure and liable to face the death sentence as stated in 937C of the *Laws*. The Athenian Stranger prescribes also the death penalty for offences such as harbouring an exile, waging private war, taking bribes (955B-D) and obstructing the course of justice (958C), without any attempt to show that those who do these things must be incurable. The fact that the Athenian Stranger is so frequently in favour of the death penalty may be an indication of deterrent tendencies built into his conception of the law as implied in passages such as 721E, 722B, 784C and 853B-C of the *Laws*. He also expects punishment to have an educational function as the task of the lawgiver should teach the citizens virtue by dispensing the appropriate portion of praise and blame, rewards and penalties (*Laws*, 631B-632D). The Athenian Stranger also views punishment as a mechanism for enforcing social conformity by reshaping the criminal's character to a pattern approved by the state.

Mackenzie (1981: 208-214) distinguishes two types of deterrence in Plato's philosophy namely humanitarian deterrence and utilitarian deterrence. His early version of the deterrence theory, the execution of the incurables, seems to go hand in hand with reform, and one may attempt to clarify it in two ways:

Firstly the criminal is either no longer in a position to gain from life and by implication he is harmed by continuous existence as stated in the *Gorgias* (525B-C): "*Those who are improved when they are punished by gods and men, are those whose sins are curable; and they are improved, as in this world so also in another, by pain and suffering; for there is no other way in which they can be delivered from their evil. But they who have been guilty of the worst crimes, and are incurable by reason of their crimes, are made examples; for, as they are incurable, the time has passed at which they can receive any benefit. They get no good themselves, but others get good when they behold them enduring for ever the most terrible and painful and fearful sufferings as the penalty of their sins-there they are, hanging up as examples, in the prison-house of the world below, a spectacle and a warning to all unrighteous men who come to that place*". This passage in the *Gorgias* alleges that those who are justly punished benefit themselves by undergoing improvement or should serve as an example so that others who see them subjected to suffering may become better through fear. The implication is that those who refrain from crime through fear not only avoid doing evil deeds but may also become better people. Considering Socrates' views in the *Republic* that we become just by doing just deeds, it should eventually lead to people acquiring just characters. It would appear to be implicit in this doctrine that

the indirect effect of punishment will be to make people virtuous. Thus an offender's character would genuinely have been improved and one might comment on him as having been cured of his wickedness.

Secondly the criminal by his suffering he may benefit others, mainly by deterring them from following his example, and moreover by removing his own evil influence from them. This is argued as follows: "*But if the legislator has to establish a new society and new laws without dictatorial powers, and succeeds in administering no more than the mildest purge, he will be well content even with this limited achievement. Like drastic medicines, the best purge is a painful business: it involves chastisement by a combination of 'judgement' and 'punishment', and takes the latter, ultimately, to the point of death and exile. That usually gets rid of the major criminals who are incurable and do the state enormous harm*" (*Laws* V 735D-E). Thus, an offender's punishment either benefits both himself and others, or it is no harm to him and a benefit to others. According to Plato, only when the criminal is deemed incurable and not any more in a position to profit from reform, may he be used for deterrent purposes. In book IX of the *Laws* he states it as follows: "*When anyone commits an act of injustice, serious or trivial, the law will combine instruction and constraint, so that in the future either the criminal will never again dare to commit such a crime voluntarily, or he will do it a very great deal less often; and in addition, he will pay compensation for the damage he has done. This something we can achieve only by laws of the highest quality. We may take action, or simply talk to the criminal; we may grant him pleasures, or make him suffer; we may honour him, we may disgrace him; we can fine him or give him gifts. We may use absolutely any means to make him hate injustice and embrace true justice - or at any rate not hate it. But suppose the lawgiver finds a man who is beyond cure - what legal penalty will he provide for this case? He will recognize that the best thing for all such people is to cease to live - best even for themselves. By passing on they will help others, too: first they will constitute a warning against injustice, and secondly they will leave the state free of scoundrels. That is why the lawgiver should prescribe the death penalty in such cases, by way of punishment for their crimes (ἀμαρτημάτων) - but in no other case whatever*" (*Laws* IX 862C-863A). It is noteworthy that the Greek word ἀμαρτημάτων "hamartematon" is rendered as "crimes" or "sins" in various translations. In the quoted passage the death penalty is reckoned to be the most severe penalty of all, and is imposed retributively for serious crimes and for purposes of deterrence. But Plato rules out retribution, and sees the crucial issue as not the seriousness of the crime, but what the seriousness tells one about the criminal's state of mind. A very serious crime is proof that the criminal is beyond cure and that the normal policy of attempting to cure it is inappropriate. When this is so the death

penalty should be imposed and in no other case. This type of punishment will also serve to deter others and cleanse the state from evil persons.

In Calvert's (1997: 246) opinion Plato's reference to the purging of injustice from the soul of the criminal suggests that the aim is to bring about genuine reform in the offender when he intends making the criminal to "hate injustice and embrace true justice". At other times he seems to be more realistic or less enterprising when he says that "the criminal will never again dare to commit such a crime or do it less often" and resigns himself to the fact that with some people the maximum one can achieve is a change in behaviour. In the second part of the passage (*Laws* IX 862C – 863A) Plato contends that not all offenders will be obliging to treatment as some will prove to be unrehabilitable (incurable) and the best thing for such people is that they be executed. Their execution will not only be for their own benefit but in these circumstances, and only in these circumstances, the death penalty will deter others from acting likewise and will also protect society by the elimination of such wicked persons together with the assurance that they never repeat their deeds.

According to MacKenzie (1981: 214) the deterrent arm of Plato's penology reveals both humanitarian and utilitarian characteristics. It is justified either by benevolence extended to the individual offender, or by benevolence extended to the society. The objections raised by MacKenzie are directed on both humanitarian and utilitarian fronts. On the humanitarian front the question asked is whether paternalism (ie. the alternative defence for the humanitarian against the charge that he infringes upon the criminal's rights) is justified. On the utilitarian front the question posed is whether victimisation or gross exploitation is possible and if this is the case, is that justified.

The institution of reform, however, is the core of Plato's penology. Reform is the primary consideration, which may be ignored only when it cannot be effective and it is to be justified on individualistic, humanitarian grounds. In Plato's *Protagoras* (324A-324C) it becomes evident that punishment is relevant to those qualities over which a man has control as Protagoras endeavours to prove that virtue (*ἀρετή*) is teachable. Punishment is considered an incentive which will improve human behaviour in the future and can be utilised as an instrument in the teaching of virtue, as well as a form of social hygiene. But included in the previous passage is a notable claim that punishment ought not to be inflicted with an eye to the past implying that the ordinary man is in fact committed to the rational policy of ignoring the past. This is an incorrect assumption due to the fact that the ordinary man clearly believed that punishment should be imposed with due consideration to the past as the people sanctioned compensation and satisfaction. In Platonic language, retribution is punishment whose

justification is sought retrospectively, in the loss or damage caused. It is based on the assumption that people deserve punishment if and only if they have intentionally done wrong. The penal code of the *Laws* on the other hand, makes no distinction between the question whether the agent committed an offence intentionally and the issue is raised as to how he should be punished. This is what one would have expected in view of Plato's theory of punishment. He rejects any element of retributivism and looks on punishment as a devise for doing social good, mainly by curing the criminal. (Stalley, 1983: 162-164). Within the *Laws* there is no explicit account of how punishment cures, though we might construct an account out of some remarks made during the discussion of drinking parties. The Athenian Stranger there argues that the fear of disgrace or punishment may stop us fleeing from danger. This "good" or beneficial fear may thus help to train us in the habit of fearlessness (646e-648c). This idea could be generalized pointing to a process whereby people initially desist from committing crime due to fear of punishment and thus become used to just behaviour. The problem which is also viewed by Stalley (1983:146) as a major weakness in Plato's theory of punishment with this proposition is that it makes the reformative effect of punishment dependent on deterrence and in doing so renders his curative perspective unacceptable.

In the *Laws*, Plato proposed that the Nocturnal Council (*nukterinos sullogos*) - composed of men with the highest knowledge - visit those found guilty of heresy. The heretics believed that the gods were indifferent to humans or subject to bribes. While they served time in the House of Corrections the Nocturnal Council would reason with the heretics about the error of their thinking. This suggests that Plato identified a critical role for moral education in punishment - however he recommended the death penalty after a second conviction. Jean Hampton, a contemporary political theorist, justifies punishment "as a way to prevent wrongdoing insofar as it can teach both wrongdoers and the public at large the moral reasons for choosing not to perform an offence" (Simmons et al., 1995: 117) Unlike most versions of the rehabilitation theory, moral education does not regard the offender as sick. The moral approach does not socially condition wrongdoers, but rather it teaches them about the moral boundaries they have transgressed. Perhaps, as restitution advocates claim, rehabilitation theorists have focussed wrongly on the perpetrator and the time has arrived for penologists to begin addressing the victim.

IV

In trying to justify the death penalty in terms of his curative penology, Plato resorts to a number of paradoxes and it is worth revisiting them in order to

grasp their significance. In 854E of the *Laws*, Plato states that no penalty imposed by law has an evil purpose but generally achieves one of two results, namely, it either makes the person who suffers the penalty either more virtuous or less wicked. He continues by saying that if a citizen is ever convicted of some great and infamous offence against the gods or his parents or the state, the penalty is death and the judge should consider him as already beyond cure bearing in mind the kind of education and upbringing the man has enjoyed from his earliest years and how after all this he has still not abstained from acts of the greatest evil. The offender will thus suffer the penalty of death which is the least of evils and moreover by serving as an example, he will benefit others when he is disgracefully banished from sight beyond the borders of the state. The paradox consists in that the incurable wrongdoer by not desisting from committing the greatest evils, is punished by the penalty of death which is the least of evils. What is more, it becomes a double paradox when the penalty is death, as it is hard to see how death can make the person more virtuous or less wicked and because according to the aforesaid, death is an evil albeit a small one.

In 862E of the *Laws*, Plato alleges that it is in the interests of incurable offenders themselves to live no longer. The imposition of the death sentence on them will serve firstly as a warning against injustice and secondly this action will leave the state free of scoundrels. That is why the lawgiver should prescribe the death penalty in such cases, by way of punishment for their crimes. The curable/incurable antithesis is also elucidated in 957E-958A of the *Laws* by the following statements: On the one hand a good judge will confirm and strengthen the virtuous in the paths of righteousness, and do his best to cast out ignorance, incontinence and cowardice and indeed every sort of injustice from the hearts of those criminals whose outlook can be cured. On the other hand when a man's soul is unchangeably fixed in that condition by decree of fate, good judges and their advisers will deserve the approval of the whole state if they can cure him by imposing the penalty of death. Therefore for incurable offenders death is a cure in the sense that they are cured of their bad moral condition. Plato's point is that it takes a certain amount of sophistication and learning to appreciate the paradox that the best cure for the incurable is death, which enables the criminal to cut his losses because a longer life lived would lead to greater depravity and therefore greater punishment for him eventually in the next world. What is more, he is a danger to the state and the state should get rid of him.

The most extreme deterrent is the prospect of suffering in Hades as declared by Plato in 880E-881A. of the *Laws*: "*Consider a man who will dare to lay hands on his father or mother or their ancestors by using outrageous violence. He will fear neither the wrath of the gods above nor the punishments said to await him in the grave; he will hold the ancient and*

universal tradition in contempt, on the strength of his ‘knowledge’ in a field where he is in fact a total ignoramus. He will therefore turn criminal, and will stand in need of some extreme deterrent. Death, however, is not an extreme penalty: the sufferings said to be in store for these people in the world to come are much more extreme than that. But although the threat of these sufferings is no idle one, it has no deterrent affect at all on souls like these. If it did, we should never have to deal with assaults on mothers, and wicked and presumptuous attacks on other ancestors. I conclude, therefore, that the punishments men suffer for these crimes here on earth while they are alive should as far as possible equal the penalties beyond the grave”. It is evident that death is not extreme as a penalty and thus not as severe as the deterrent needed to have a therapeutic effect on the monstrous offenders. In Saunders’s view Plato differentiates between death as a quick transition from life to a bare state of being dead and the dead person’s post-mortem punishments. If the passing on is an evil, with reference to the incurable offender suffering some pain during his execution and to a certain extent also being deprived of the joy of living, it is still a minor and not an extreme evil when compared with the punishments which should be a greater deterrent than the passing on. This paradox has been highlighted earlier on, in the 854D-E passage where death is the least of all evils apart from the post mortem punishments.

According to Saunders (1991: 182) the aim of the various paradoxes expounding punishment is to help clarify a dilemma generated by this new penology. In line with the Platonic principles one must never harm anyone, therefore in Plato’s language punishment which causes pain, is justified by its therapeutic effect and thus no harm is caused. But death which is harm, rules out cure and the obvious question is how it can be justified. Saunders (1991: 183) questions Plato’s insistence in resorting to paradoxes in order to justify the death penalty but then reasons that by presenting death for incurables as a necessary evil or even as a benefit, Plato implies that even incurables are in some way under the philanthropic momentum of Socratic penology. An alternative view could be that Plato wishes to persuade legislators to get over their natural repulsion against imposing the death penalty as often as he prescribes.

V

In Plato’s view, punishment and also capital punishment comes into the category of institutions which are undesirable but inevitable and his ideal state of Magnesia would be one in which all the inhabitants either had full moral knowledge, so that on Socratic principles they would never commit injustice, or were so thoroughly conditioned by training and education, on

the level of ‘right opinion’, that the same result would be achieved. Thus on the one hand, the legislator considers punishment in a state as unnecessary but on the other hand punishment is demanded by ordinary men, who will not tolerate a society in which no provision is made for wrongdoers to suffer for the pain they inflict. In both the *Republic* and the *Laws* texts, Plato treats punishment as being a social practice that reveals the fundamental conceptual structure and system of value according to which the members of community understand their world and organize their behaviours within that world. Plato depicts Socrates not only as a figure who wishes to revise social orders and practices across the board but also as one who attempts to do so by focussing on the topic of punishment and the topic of how a given society responds to social disruption (Allen, 2000: 281). Moreover the analysis of Plato’s theory of punishment shows that the implications would be pushed to the limit in the sense that if a man’s existence proves inimical to the happiness (*eudaimonia*) of the state, for whatever reason, he must be removed. Adkins (1960:311) interprets it as “nothing may take precedence over civic *eudaimonid*”.

If capital punishment is pronounced, the evidence should be beyond a shadow of doubt. Can an innocent person be put to death, is an important question that needs to be asked. Voltaire raises the concern, that it is better to risk saving a guilty man than to condemn an innocent one. One cannot say with certainty that Plato would have been supportive of this view. Confident that his lawcode will hold good at all times, Plato is unrelenting in his belief that the laws be “immovable” (ακίνητοι) or “unchanged”; as the Athenian Stranger puts it at 798A-B. *“If the laws under which people are brought up have by some heaven-sent good fortune remained unchanged over a very long period, so that no one remembers or has heard of things ever being any different, the soul is filled with such respect for tradition that it shrinks from meddling with it in any way. By hook or by crook, then, the lawgiver must devise a means whereby this shall be true of his state”*. However there is a great margin of misinterpretation when reading Plato’s works in isolation from the rest of his works on a particular important theme such as capital punishment. What also needs to be borne in mind is that the main aim of Plato’s penology is to enhance the authorities’ influence over the behaviour of the citizens of his projected state. This goes hand in hand with his political theory in all his relevant works but especially in the *Republic* and in the *Laws*.

Many philosophers ponder as to what Plato’s position would have been, if he had lived now and had read Hume, Kant, Wittgenstein, Popper, abolitionists, retentionists and others in respect of various issues as regards punishment, including the abolition or the retention of the death penalty. In addition imagine that we could teach him modern philosophical English and speculate as to what answers he would then give; but it will be speculation

and could not in any case pose as an interpretation of his views expressed in the dialogues. Plato's aim is an ideal society as he envisioned a world more real and more substantial and perfect that lies outside our experience. I venture to suggest that by pointing to this perfect world Plato would have assented that capital punishment would not be needed, while in the here and now its imposition with the utmost caution, albeit as an exception to the rule, could be necessary for the benefit of the incurable offenders and also for the protection of the virtuous who would then be able to fulfill their full potential.

But I wish to let the great philosopher have the last say from his masterpiece of art ie. the Symposium 207D-E: "*Yet though man is called the same he does not at any time possess the same properties; he is continually becoming a new person, and there are things also which he loses, as appears by his hair, his flesh, his bones, and his blood and body altogether. Which is true not only of the body, but also of the soul, whose habits, tempers, opinions, desires, pleasures, pains, fears, never remain the same in his particular self, as some things grow in him, while others perish; and equally true of knowledge, and what is still more surprising to us mortals, not only do the sciences in general spring up and decay, so that in respect of them we are never the same; but each of them individually experiences a like change*".

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