

1999

A Secular Community May Not Execute Its Members

Richard Stith

Valparaiso University, richard.stith@valpo.edu

Follow this and additional works at: http://scholar.valpo.edu/law_fac_pubs



Part of the [Jurisprudence Commons](#)

Recommended Citation

Richard Stith, *A Secular Community May Not Execute Its Members*, *Harmony*, February, 1999.

This Article is brought to you for free and open access by the Law Faculty Presentations and Publications at ValpoScholar. It has been accepted for inclusion in Law Faculty Publications by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.

A Secular Community May Not Execute Its Members

Richard Stith

The purpose of law is to provide a framework for the fulfillment of everyone in our community. We can disagree, debate, and vote about how much each of us should give or get to reach this goal. But we cannot begin to debate or doubt the wisdom of considering each human being an end rather than only a means. We as a community have problems, but none of us is the problem. Our problems are defined by the goal of universal human flourishing. To call that goal into question is to make coherent public discussion impossible. If people can just be used, for whom are we going to use them? Reason becomes at best a weapon for each faction to use to achieve domination over others.

The above principle means that we can only give or take things from others, based on how well or poorly they serve our common goal of human fulfillment. If our neighbors do wrong, they may deserve a certain punishment, and it may be imposed on them insofar as necessary to deter future evil of like or greater magnitude. But they cannot be stripped of their basic human inviolability, their basic right to be treated as a fellow-subject in our community. Thus it is appropriate to punish criminals by depriving them of money or liberty, but not by intentionally maiming them, treating them as animals, or killing them. Killing is not just taking the greatest thing away from a person, as "capital" punishment may seem to claim. It is the destruction of the person himself. It does not deprive a person of a good, as retribution for a crime; it does not make him "pay his debt to society." No. It is qualitatively different. It doesn't pay a debt, it kills the debtor. It violates his being and the foundational assumption of our community.

Some may argue that by committing a serious crime, the criminal "forfeits" his right to be a member of our community, voluntarily chooses to become an



Richard Stith

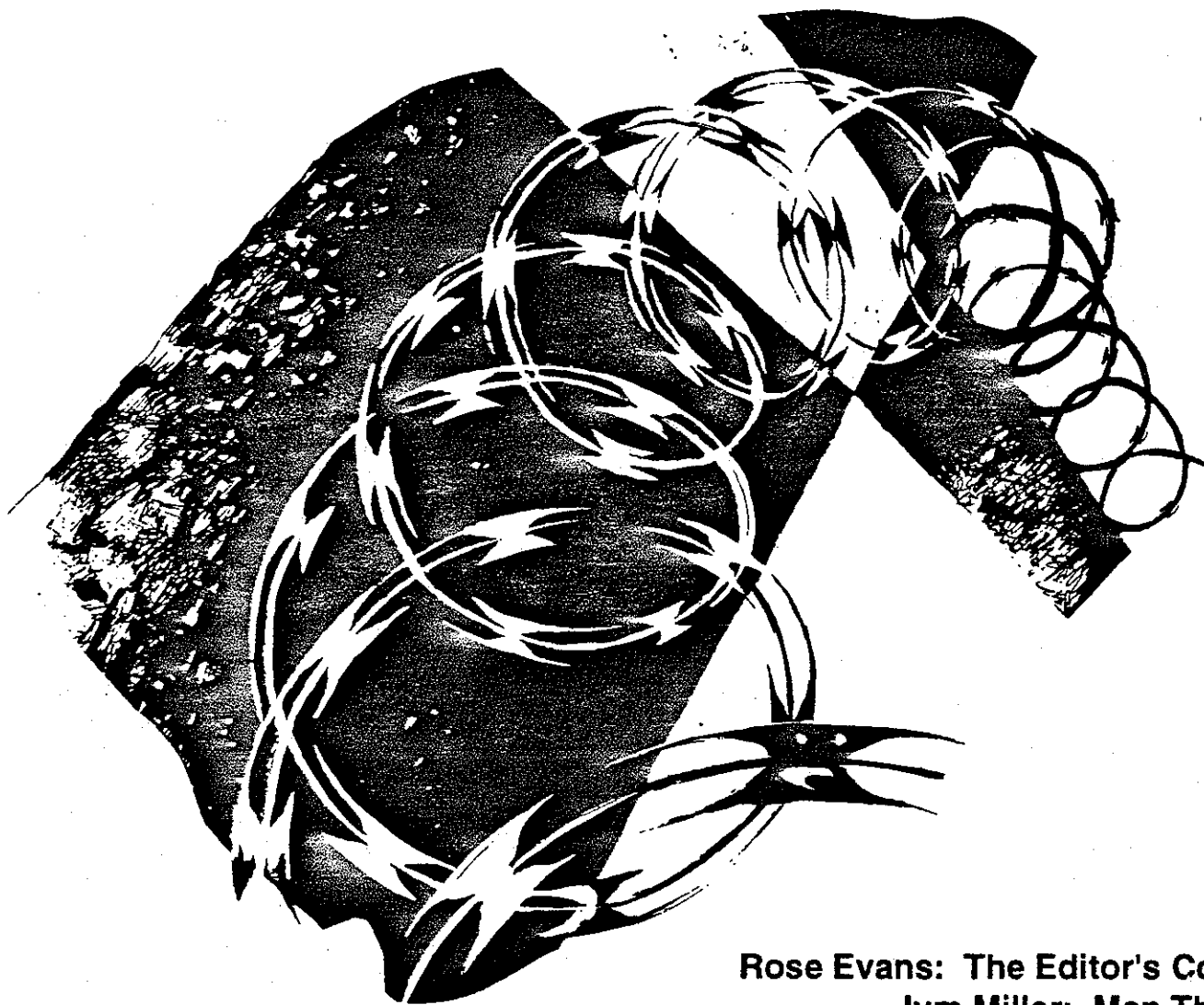
outlaw. But human dignity and inviolability are not a matter of choice. We cannot forfeit or waive our humanity. We cannot legally consent to be enslaved, maimed, or killed. Voluntary euthanasia and capital punishment are wrong for the same reason: There is nothing any person could say or do that could negate the equal and intrinsic human inviolability which is the axiomatic starting point for public life. Someone's suffering or his evil deeds are horrors we face with him. His existence is not itself a horror, even if in his despair he begs us to treat him as expendable.

Note that the above argument is entirely non-religious or secular. There could in theory be convincing religious arguments in favor of capital punishment. This is so because from a religious point of view we are joined to each other primarily through God. If God permits capital punishment, doing as He says does not undo the fundamental principle of a religiously-based community. But whether the God who died on a cross in fact permits capital punishment is open to doubt.



Richard Stith is a Professor at the School of Law of Valparaiso University in Indiana. He is an endorser of the Seamless Garment Mission Statement.

**But human dignity and inviolability
are not a matter of choice.
We cannot forfeit or waive
our humanity.**



	Rose Evans: The Editor's Corner	2
	Jym Miller: Man Things	3
	Ruth Enero: When One Leg Won't Do	4
Richard Stith: A Secular Community May Not Execute Its Members		7
	Carol Crossed: The Consistent Bystander	8
Richard Stith: Are Prolifers for Choice Dangerous?		13
	Prolife Couple, Internet Riches	14
	Prolife Democrats - New Developments	15
Rose Evans: Feminists for Life Leader In SF Bay Area		16
	News and Events	17
	Books	22
	Fruggle	27

harmony

voices for a just future