

# C. S. Lewis and the Humanitarian Theory of Punishment

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TO T. S. ELIOT, who had written to him in his serious illness, Lewis wrote:

'We must have a talk—I wish you'd write an essay on it—about Punishment. The modern view, by excluding the retributive element and concentrating solely on deterrence and cure, is hideously immoral. It is vile tyranny to submit a man to compulsory "cure" or sacrifice him to the deterrence of others, unless he deserves it. On the other view what is there to prevent any of us being handed over to Butler's "Straighteners" at any moment?'

It was a subject about which Lewis felt deeply. He was frustrated by the fact that he could get little hearing for his point of view. At the end of his paper on 'The Humanitarian Theory of Punishment' (published in *The Twentieth Century: an Australian Quarterly Review*<sup>2</sup>), there is a revealing postscript: 'One last word. You may ask why I send this to an Australian periodical. The reason is simple and perhaps worth recording: I can get no hearing for it in England.'<sup>3</sup> The nature of the debate and its subsequent ramifications are worth recording.

The issue was prompted by widespread public controversy about Capital Punishment. What interested Lewis was the larger and more fundamental question of the nature of punishment itself.<sup>4</sup>

'My subject is not Capital Punishment in particular, but that theory of punishment in general which the controversy showed to be almost universal among my fellow-countrymen. It may be called the Humanitarian Theory. Those who hold it think that it is mild and merciful. In this I believe that they are seriously mistaken. I believe that the "Humanity" which it claims is a dangerous illusion and disguises the possibility of cruelty and injustice without end. I urge a return to the traditional or Retributive theory not solely, not even primarily, in the interests of society but in the interests of the criminal.'<sup>5</sup>

The advocates of the humanitarian theory of punishment, Lewis

pointed out, argue that the traditional concept of punishment based upon desert is barbarous and immoral and that the only legitimate basis for punishment is the desire to deter others by example and to mend the criminal. This belief implies that all crime is morally pathological and that what is required is not punishment but psychiatry. At first sight this sounds eminently sensible: what we are doing is abandoning the harsh and self-righteous notion of giving the wicked their deserts for the charitable and enlightened one of tending the psychologically sick. Lewis pointed out, however, that 'the things done to the criminal, even if they are called cures, will be just as compulsory as they were in the old when we called them punishments.'<sup>6</sup>

It was this aspect of the matter that filled Lewis with dark foreboding. 'My contention,' he repeated, 'is that this doctrine, merciful though it appears, really means that each one of us, from the moment he breaks the law, is deprived of the rights of a human being.'

The traditional concept of punishment is tied to that of justice. The basic question is: Is the sentence just or unjust? 'When we cease to consider what the criminal deserves and consider only what will cure him or deter others,' Lewis warned, 'we have tacitly removed him from the sphere of justice altogether; instead of a person, a subject of rights, we now have a mere object, a patient, a "case".'<sup>8</sup>

The humanitarian theory of punishment changes the whole character of the judicial process. Traditionally, the determination of what constitutes a just sentence is regarded as a moral problem: that is why we appoint as judges persons trained in jurisprudence, trained, that is, in a science which deals with rights and duties and which, in origin at least, consciously accepts guidance from the Law of Nature and from Scripture. Now, we are concerned not with what is just, but with what will deter and what will reform. We are taking the matter out of the hands of the jurists, and are placing it in the hands of the penologist ['let barbarous things have barbarous names', Lewis commented] and the psychotherapist.<sup>9</sup>

'It will be in vain for the rest of us, speaking simply as men, to say, "But this punishment is hideously unjust, hideously disproportionate to the criminal's deserts." The experts, with perfect logic will reply, "but nobody was talking about deserts. No one was talking about *punishment* in your archaic vindictive sense of the word. Here are the statistics proving that this treatment deters. Here are the statistics proving that this other treatment cures. What is your trouble?" The Humanitarian theory, then, removes sentences from the hands of jurists whom the public conscience is entitled to criticise and places them in the hands of technical experts whose special sciences do not even employ such categories as Rights or Justice.'<sup>10</sup>

What we are doing, he pointed out, is substituting an indefinite sentence terminable only by the word of the experts for a definite sentence reflecting the community's moral judgment on the degree of

ill desert involved. 'Which of us,' he asked rhetorically, 'if he stood in the dock, would not prefer to be tried by the old system?'<sup>11</sup>

It is specious to argue that what we are being offered is healing and not punishment.

'Do not let us,' Lewis warned, 'be deceived by a name. To be taken without consent from my home and friends; to lose my liberty; to undergo all those assaults on my personality which modern psychotherapy knows how to deliver; to be remade after some pattern of "normality" hatched in a Viennese laboratory to which I never professed allegiance; to know that this process will never end until either my captors have succeeded or I grown wise enough to cheat them with apparent success—who cares whether this is called Punishment or not? That it includes most of the elements for which any punishment is feared—shame, exile, bondage, and years eaten by the locust—is obvious. Only enormous ill-desert could justify it; but ill-desert is the very conception which the Humanitarian theory has thrown overboard.'<sup>12</sup>

This is the gravamen of Lewis' case:

'To be "cured" against one's will and cured of states which we may not regard as disease is to be put on a level with those who have not yet reached the age of reason or those who never will; to be classed with infants, imbeciles, and domestic animals. But to be punished, however severely, because we have deserved it, because we "ought to have known better", is to be treated as a human person made in God's Image.'<sup>13</sup>

Lewis had a lively awareness of the sinister political implications of the humanitarian theory of punishment. It places in the hands of the State, he argued, a finer instrument of tyranny than anything we have ever known before.<sup>14</sup>

'If crime and disease are to be regarded as the same thing, it follows that any state of mind which our masters choose to call "disease" can be treated as crime and compulsorily cured. It will be vain to plead that states of mind which displease the government need not always involve moral turpitude and do not therefore always deserve forfeiture of liberty. For our masters will not be using the concepts of Desert and Punishment but those of disease and cure. We know, he solemnly warned, that one school of psychology already regards religion as a neurosis. When this particular neurosis becomes inconvenient to the government what is to hinder the government from proceeding to "cure" it? Such "cure" will, of course, be compulsory; but under the Humanitarian theory it will not be called by the shocking name of Persecution. No one will blame us for being Christians, no one will hate us, no one will revile us. The New Nero will approach us with the silky manners of a doctor, and though all will be in fact as compulsory as the *tunica molesta* of Smithfield or Tyburn, all will go on within the unemotional therapeutic sphere where words like "right" and "wrong" or "freedom" and "slavery" are never heard. And thus when the command is given every prominent Christian in the land may vanish overnight into Institutions for the Treatment of the Ideologically Unsound, and it will rest with the expert gaolers to say when (if ever) they are to re-emerge.'<sup>15</sup>

Is the man who commits a crime a sinner or a sick man? Does he deserve punishment or does he need treatment? The humanitarian theory of punishment, with its suggestion that crime is a matter for treatment rather than for punishment,

'carries on its front a semblance of Mercy which is wholly false. The older view was that Mercy "tempered" Justice, or (on the highest level of all) that Mercy and Justice had met and kissed. The essential act of Mercy was to pardon; and pardon in its very essence involves the recognition of guilt and ill-desert in the recipient. If crime is only a disease which needs cure, not sin which deserves punishment, it cannot be pardoned. How can you pardon a man for having a gum-boil or a club foot? But the Humanitarian theory wants simply to abolish Justice and substitute Mercy for it. This means that you start being "kind" to people before you have considered their rights, and then force upon them supposed kindnesses which they in fact had a right to refuse, and finally kindnesses which no one but you will recognise as kindnesses and which the recipient will feel as abominable cruelties. You have overshot the mark. Mercy, detached from Justice, grows unmerciful. That is the important paradox.'<sup>16</sup>

Lewis quoted, by way of conclusion, Bunyan's indignant words: 'It came burning hot into my mind, whatever he said, and however he flattered, when he got me home to his house, he would sell me for a slave.'<sup>17</sup>

Lewis' vigorous attack on the Humanitarian Theory of Punishment provoked a thoughtful reply from Dr. Norval Morris and Dr. Donald Buckle, members of the newly established Department of Criminology in the University of Melbourne.<sup>18</sup> 'His thesis,' they said, 'is so profoundly opposed to our work as participants in this new Department that it is incumbent upon us to state our position.'<sup>19</sup> They disarmingly described themselves as 'Davids with literary slings incapable of delivering a series of blows as incisive as even one phrase from the armoury of Goliath Lewis'.<sup>20</sup>

They agreed that no man can be trusted with absolute power.

'It is undeniable that to put a man in a white coat, or to give him a degree in psychology or sociology, does not diminish his sadistic potentialities or the disrupting effects of power on him. Such specialists must be regarded with that healthy scepticism of which Lewis is a fine champion; but scepticism should not lead us to deny their usefulness entirely, and insist—as does Lewis—on purely condign punishment, linked, as he phrases it, to the criminal's "desert". As we shall show, the use of the expert does not involve any abandonment of control over him. He can be kept on tap and yet not on top.'<sup>21</sup>

Lewis, they charged, ignores the fact that

'the vital purpose of the criminal law is the *protection of the community*, always limiting and conditioning its punishments in the light of two other factors, namely, a determination by its actions never to deny the fundamental humanity of even the most depraved criminal, and secondly, a critical

appraisal of the limits of our understanding of the springs of human conduct and our ability to predict its course.’<sup>22</sup>

Lewis, they went on, omits any reference to the protection of the community as a valid aim of penal sanctions: in his preoccupation with the human personality of the individual criminal he overlooks the individual humanity of the potential victim of the criminal. ‘It is this humanity we defend; the humanity of those whose only likely connection with the criminal law is the law’s failure to protect them from clearly dangerous people.’<sup>23</sup>

Morris and Buckle insisted that crime must be understood in terms of social pathology.

‘None of us shrinks from imposing considerable limitations on the freedom of action of those suffering from an infectious disease, and it is perfectly clear that over a wide area we have a Humanitarian Theory of Social Medicine. Crime is not a personal disease; it cannot be equated to personal disease; it is, however, a social disease. Looked at from the point of view of society, crime is a disease of an integral part of that society. And it is a virus from which society must seek protection.’<sup>24</sup>

No person, they repeated, accepts the view that crime is an individually pathological phenomenon; it is quite clearly a social pathological phenomenon.

‘It is,’ they noted, ‘easy to exaggerate the dangers of the new penology, but the dangers are not insuperable. The Courts have to hand excellent techniques for controlling the exuberance of the expert in criminology or penology. Let the ultimate control always reside in the Courts, let the expert always be accountable to them, let the criminal always have access to the Court, let the controls of natural justice which the law has built up be applicable, and, it is suggested, the tyranny which Lewis foreshadows will not eventuate. This type of protection of the individual citizen is surely not beyond the wit of a Nation that has built up the concept of a Parliament and the idea of a Jury.’<sup>25</sup>

The humanitarian theory of punishment thus seeks to balance the welfare of society against the welfare of the individual criminal. In any case, they categorically affirmed, there is no possibility of returning to the retributive theory of punishment. In relation to child delinquents and habitual criminals, for example, the concept of a deserved punishment, in an expiatory, talionic sense, has long since been abandoned. Therefore they rejected Lewis’ concept of desert as the only basis for just punishment:

‘As he sees it, the idea of the “deserved” or “just” punishment is an acceptance that for each offence, calculated in the light both of the crime committed and the history of crimes perpetrated by that individual, there is a price of punishment known fairly widely throughout the community—that there is, in other words, a pricelist of deserved punishments. Now the contrast with this is the Humanitarian Theory which sees crime as a dynamic situation, not involving two parties, but involving many parties: not only a criminal and his victim, but a whole list of future potential

victims who, unless they are protected with the best means at our disposal, are likely to suffer hardship.’<sup>26</sup>

‘Our argument,’ they summarily concluded, ‘thus leads to a rejection of the Retributive Theory, not only on philosophical but also on purely practical political grounds, and to an acceptance of a morally just Humanitarian approach to punishment.’<sup>27</sup>

Lewis’ article, and the reply by Morris and Buckle, were reprinted in the Australian legal journal *Res Judicatae*.<sup>28</sup> At this point, Professor J. C. C. Smart, Hughes Professor of Philosophy in the University of Adelaide, entered the debate with a contribution that was also published in *Res Judicatae*.<sup>29</sup>

Smart, who praised Morris and Buckle’s ‘admirable’ reply, alleged that Lewis had got at cross purposes with himself by failing to distinguish between first order and second order questions. In relation to the law, the only question that we need to ask is: Will this measure promote the well being of society? This, he suggested, is the only argument that is relevant. The appeal to the Bible or to the Law of Nature, he slightly observed, is ‘by someone who wishes to disguise his own dogmatism and to conceal the fact that he is either unable or too lazy to search for a rational [i.e. a utilitarian] justification of the proposed measure.’<sup>30</sup>

A few months later Lewis replied to both these critiques.<sup>31</sup> Smart’s distinction between first order and second order questions is, Lewis noted, a very ancient one.

‘It was realised by all the thinkers of the past that you could consider either (a) Whether an act was “just” in the sense of conforming to a law or custom, or (b) Whether a law or custom was itself “just”. To the ancients and medievals, however, the distinction was one between (a) Justice by law or convention *nomi* (i) and (b) Justice “simply” or “by nature”, *haplos* or *physei*, or between (a) Positive Law, and (b) Natural Law. Both inquiries were about justice, but the distinction between them was acknowledged.’

The novelty of Professor Smart’s system, Lewis explained, consists in confining the concept of justice to the First-order questions.<sup>32</sup>

Smart claims that his system (1) avoids a *petitio* inherent in any appeal to the Law of Nature or the ‘simply’ just and (2) gets rid of dogmatic subjectivism.<sup>33</sup> The question is whether the inconveniences noted by Smart are in fact avoided. If Smart thinks that the rules are to be accepted simply because they are useful to the community [utility being what will make the community ‘happier’], ‘does this mean that the happiness of the community is to be pursued at all costs, or only to be pursued insofar as this pursuit is compatible with certain degrees of mercy, human dignity, and veracity?’ Lewis expounded the nature of the alternatives:

‘If we take the second alternative, if we admit that there are some things, or even any one thing, which a community ought not to do however much

it will increase its happiness, then we have really given up the position. We are now judging the useful by some other standard (whether we call it Conscience, or Practical Reason, or Law of Nature or Personal Preference). Suppose then, we take the first alternative: the happiness of the community is to be pursued at all costs. In certain circumstances the costs may be very heavy. In war, in some not improbable future when the world's food runs short, during some threat of revolution, very shocking things may be likely to make the community happier or to preserve its existence. We cannot be sure that frame-ups, witch-hunts, even cannibalism, would never be in this sense "useful". Let us suppose (what, I am very sure, is false) that Professor Smart is prepared to go the whole hog. It then remains to ask him why he does so or why he thinks we should agree with him.<sup>34</sup>

Lewis rejected with scorn the suggestion that our goal should be the pursuit of the community's happiness at all costs, even though this might be Smart's personal preference:

'I had rather that the human race, having a certain quality in their lives, should continue for only a few centuries than that, losing freedom, friendship, dignity, and mercy, and learning to be quite content without them, they should continue for millions of millenia. If it is merely a matter of wishes, there is really no further question for discussion. Lots of people feel like me, and lots feel the other way. I believe that it is in our age being decided which kind of man will win.'<sup>35</sup>

The important issue, as Lewis saw it, was not the merits or demerits of utilitarianism as a philosophical system, but the practical issues raised by Morris and Buckle.

'We,' Lewis reminded Smart, 'are only dons; they are criminologists, a lawyer and a psychiatrist respectively. And the only thing which leads me so far off my own beat as to write about "Penology" at all is my intense anxiety as to which side in this immensely important conflict will have the Law for its ally.'<sup>36</sup>

In relation to children accused of crime we recognise, of course, that other considerations apply. Primitive societies, Lewis recalled, have been known to 'try' and 'punish' an axe or a spear in cases of unintentional homicide. During the Middle Ages a pig was solemnly tried for murder. In the same way children were tried as if they had responsibility. These things have rightly been abolished.

'But the whole question is whether you want the process to be carried further: whether you want us all to be simultaneously deprived of the protection and released from the responsibilities of adult citizenship and reduced to the level of the child, the pig, and the axe. I don't want this because I don't think there are in fact any people who stand to the rest of us as adult to child, man to beast, or animate to inanimate.'<sup>37</sup>

Lewis ended with a passionate plea:

'I wish society to be protected and I should be very glad if all punishments were also cures. All I plead for is the prior condition of ill desert; loss of liberty justified on retributive grounds before we begin considering the

other factors. After that, as you please. Till that, there is really no question of "punishment".<sup>38</sup>

What is at stake, he asserted, is nothing less than the survival of our humanity.

'If I am not deceived, we are all at this moment helping to decide whether humanity shall retain all that has hitherto made humanity worth preserving, or whether we must slide down into the subhumanity imagined by Mr. Aldous Huxley and George Orwell and partially realised in Hitler's Germany. For the extermination of the Jews really would have been "useful" if the racial theories had been correct; there is no foretelling what may come to seem, or even to be, "useful", and "necessity" was always "the tyrant's plea".'<sup>39</sup>

There, for the time being, the matter rested.

Nevertheless, as his letter to T. S. Eliot indicates, it was always in the forefront of his mind. He reverted to the subject in the columns of *The Observer* in a panel discussion with C. P. (later Lord) Snow and others on the subject 'Is Progress Possible?' Snow had argued that progress is possible and had cited as evidence the advances of science and our new attitude to crime. Lewis was not impressed. By way of rebuttal it was sufficient, he suggested, to mention the trainloads of Jews delivered by the Germans to the gas chambers. It seemed shocking to suggest a common element, but he believed one existed.

'On the old view public opinion might protest against a punishment as excessive, more than the man "deserved"; an ethical question on which anyone might have an opinion. But a remedial treatment can be judged only by the probability of its success; a technical question on which only experts can speak. Thus the criminal ceases to be a person, a subject of rights and duties, and becomes merely an object on which society can work. And this is, in principle, how Hitler treated the Jews. They were objects; killed not for ill desert but because, on his theories, they were a disease in society. If society can mend, remake, and unmake men at its pleasure, its pleasure may, of course, be humane or homicidal. The difference is important. But, either way, rulers have become owners.'<sup>40</sup>

This is the political philosophy we have unthinkingly adopted.

'Two wars,' he pointed out, 'necessitated vast curtailments of liberty, and we have grown, though grumblingly, accustomed to our chains. The increasing complexity and precariousness of our economic life have forced Government to take over many spheres of activity once left to choice or chance. Our intellectuals have surrendered first to the slave-philosophy of Hegel, then to Marx, finally to the linguistic analysts. As a result, classical political theory, with its Stoical, Christian, and juristic key-conceptions (natural law, the value of the individual, the rights of man), has died. The modern State exists not to protect our rights but to do us good or make us good. Hence the new name "leaders" for those who were once "rulers". We are less their subjects than their wards, pupils, or domestic animals. There is nothing left of which we can say to them, "Mind your own business." Our whole lives are their business. Here

lies our real dilemma. Probably we cannot, certainly we shall not, retrace our steps. We are tamed animals (some with kind, some with cruel, masters) and should probably starve if we got out of our cage. That is one horn of the dilemma. But in an increasingly planned society, how much of what I value can survive? That is the other horn.<sup>41</sup>

Lewis prized the precious gift of freedom. He was, by instinct and training, a sturdy and rugged individualist. He admired the man who is willing to criticise the government and snap his fingers at its ideology.

'Read Montaigne,' he advised, 'that's the voice of a man with his legs under his own table, eating the mutton and turnips raised on his own land. Who will talk like that when the State is everyone's schoolmaster and employer? Admittedly, when man was untamed, such liberty belonged only to the few, I know. Hence the horrible suspicion that our only choice is between societies with few freemen and societies with none.'<sup>42</sup>

It was the political implications that weighed upon him. He indicated the reality of the problem, in all its claustrophobic horror, in his novel, *That Hideous Strength*. 'What had hampered every English policy up to date, 'Fairy' Hardcastle tells Mark Studdock, 'was precisely the idea of deserved punishment. For desert was finite: you could do so much to the criminal and no more. Remedial treatment, on the other hand, need have no limit; it could go on till it had effected a cure, and those who were carrying it out would decide when *that* was.' Soon, she prophesied, anyone who had ever been in the hands of the police at all would come under the control of the N.I.C.E.; in the end, every citizen.<sup>43</sup>

Lewis died in 1963 [on the day that President Kennedy was assassinated] and, except in the circle of his close admirers, made few converts. Norval Morris joined the brain-drain from Australia to America and is now Professor of Law and Criminology and Director of the Centre for studies in Criminal Justice at the University of Chicago. His latest book cp. (written in collaboration with Gordon Hawkins), has the arresting title *Honest Politician's Guide to Crime Control*.<sup>44</sup>

In 1949 Lewis declared: 'I think it essential to oppose the humanitarian theory of punishment, root and branch, wherever we encounter it.' Now, a quarter of a century later, Lewis has received weighty support from an unexpected quarter. A Working Party of the American Friends' Service Committee has published two volumes: one, written by inmates undergoing the ultimate 'correction' in what are ominously designated Adjustments Centres, is entitled, *Maximum Security: Letters from California's Prisons*;<sup>45</sup> the other, *Struggle for Justice: A Report on Crime and Punishment in America*.<sup>46</sup>

The authors of the *Report* dissect the theory and practice of prison reform. Their blunt conclusion is that 'the reformist prescription is bankrupt'.<sup>47</sup> Jessica Mitford, reviewing the *Report* in *The New York Review of Books*,<sup>48</sup> stated:

'In this short book the authors (of whom several are convicts) have cut through all the benevolent-sounding verbiage to show that the "individualised treatment model" was initially, is now, and ever shall be primarily a means of maintaining maximum control over the convict population while assuaging the public conscience with promise of "imprisonment-for-rehabilitation" as opposed to "imprisonment-for-punishment".'<sup>49</sup>

The persistent branding of law breakers as sick or abnormal [the authors of the *Report* explain] is a mask to hide 'the mixture of hatred, fear, and revulsion that white middle class Protestant reformers' feel for persons who do not share their middle class ethic. The purpose of 'treatment' is to force conformity to this ethic. From the convict's point of view treatment is a humiliating game the rules of which he must learn in order to placate his keepers and manipulate the parole board at his annual hearing. Anyone who refuses to submit to 'treatment' will find himself diagnosed as a troublemaker, and his custody classification will be accordingly maximum. Furthermore, if he declines to play the 'treatment' game, he will find his incarceration indefinitely prolonged.<sup>50</sup>

The effect of this benign emphasis, Jessica Mitford accused, is that the plight of the California convict has steadily worsened. With the introduction in the early Fifties of group therapy, milieu therapy, and other rehabilitative experiments, the median term served by California's 'felony first releases', rose, over two decades, from twenty to thirty-six months, twice the national average.<sup>51</sup>

Not only has 'treatment' failed miserably after decades of experiment, the authors of the *Report* say, but even if it were scientifically feasible its methods and objectives—manipulative routines for the purpose of remoulding the young/poor/black/brown 'deviants' who fill the prisons to the satisfaction of their white/middle-class/middle-aged captors—are offensive and immoral.<sup>52</sup>

What remedy do the authors of this *Report* suggest as an alternative? They suggest that we should revert to the traditional practice of letting the punishment fit the crime. The law, through its representatives in the courts and prisons, has no business concerning itself with 'the whole person', only with that person's unlawful acts. Therefore, sentences should have a definite duration, they should be uniformly applied, and, to strip away society's comfortable delusions about the purpose of imprisonment, they should be labelled 'punishment' not 'rehabilitation'.<sup>53</sup>

We learn from the letters in the accompanying volume that some prisoners have been driven to madness and suicide. One correspondent testifies: 'Each day a prisoner is tortured psychologically and spiritually until finally he just leaps in one direction or the other. Maybe he will stab someone else for no reason at all; I've seen that. Or maybe he will take a razor blade and slice himself up from head to toe; I've seen that, too.' 'Strip cells,' a convict accuses, 'were and are designed with

one purpose in mind, purely and simply to *break* the inmate's will. To *break* the inmate's spirit.'<sup>54</sup>

Lewis saw all this long ago. He could not wish for a more disturbing vindication that that provided by these two volumes. 'Southern prisons,' the authors of the *Report* point out, 'with their overt physical brutality are not nearly as insidious as this enlightened mental torture of everything being indeterminate, never ending, subject to whim, caprice, designed to destroy mind and soul, strip integrity, murder a man's desire to think as an individual. . . .'<sup>55</sup> The *Report* ends with an anguished *cri de coeur*: 'Don't tamper with a man's soul. Don't whip his mind. Don't hand him that s . . . about rehabilitation. You can beat the flesh and it will soon become accustomed to the pain. But the mind is very, very tender. It can stand so much. . . .'<sup>56</sup>

<sup>1</sup> *Letters of C. S. Lewis*, edited by W. H. Lewis (Geoffrey Bles Ltd., London 1966), p. 304.

<sup>2</sup> *The Twentieth Century: an Australian Quarterly Review*, Vol. III, No. 3.

<sup>3</sup> C. S. Lewis, 'The Humanitarian Theory of Punishment', *The Twentieth Century: an Australian Quarterly Review*, Vol. III, No. 3. Reprinted, C. S. Lewis, *God in the Dock*, edited by Walter Hooper (William B. Eerdmans, Grand Rapids, 1970), pp. 287-94.

<sup>4</sup> Shortly before his death, in a correspondence in *The Church Times* (December 1st 1961), Lewis said: 'I do not know whether capital punishment should or should not be abolished: for neither the natural light, nor Scripture, nor ecclesiastical authority seems to tell me. But I am concerned about the grounds on which its abolition is being sought.'

<sup>5</sup> *Ibid.*, p. 1.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*, p. 2.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*, p. 3.

<sup>11</sup> *Ibid.*, p. 3.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*, p. 5.

<sup>14</sup> *Ibid.*, p. 5.

<sup>15</sup> *Ibid.*, pp. 5-6.

<sup>16</sup> *Ibid.*, pp. 6-7.

<sup>17</sup> *Ibid.*, p. 7.

<sup>18</sup> *The Twentieth Century: an Australian Quarterly Review*, Vol. VI, No. 2.

<sup>19</sup> Norval Morris and Donald Buckle, 'The Humanitarian Theory of Punishment — A Reply to C. S. Lewis', *The Twentieth Century: an Australian Quarterly Review*, Vol. VI, No. 2, p. 8.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*, p. 9.

<sup>23</sup> *Ibid.*, p. 9.

<sup>24</sup> *Ibid.*, pp. 9, 10.

<sup>25</sup> *Ibid.*, pp. 10-11.

<sup>26</sup> *Ibid.*, p. 13.

<sup>27</sup> *Ibid.*, p. 14.

<sup>28</sup> *Res Judicatae*, Vol. VI, June 1953, pp. 224-30.

<sup>29</sup> *Res Judicatae*, Vol. VI, February 1954, pp. 368-71.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Res Judicatae*, Vol. VI, August 1954, pp. 519-23. Reprinted, *God in the Dock*, pp. 295-300.

<sup>32</sup> *Res Judicatae*, Vol. VI, August 1954, p. 519.

<sup>33</sup> *Ibid.*

- <sup>34</sup> *Ibid.*, p. 520.  
<sup>35</sup> *Ibid.*, pp. 520-21.  
<sup>36</sup> *Ibid.*, p. 521.  
<sup>37</sup> *Ibid.*, p. 522.  
<sup>38</sup> *Ibid.*, p. 522.  
<sup>39</sup> *Res Judicatae*, Vol. VI, August 1954, p. 523.  
<sup>40</sup> *God in the Dock*, p. 313.  
<sup>41</sup> *Ibid.*, pp. 313-14.  
<sup>42</sup> *Ibid.*, p. 314.  
<sup>43</sup> *That Hideous Strength*, p. 46.  
<sup>44</sup> University of Chicago Press, Chicago, 1970.  
<sup>45</sup> *Maximum Security: Letters from California's Prisons*, edited by Eve Pell and members of the Prison Law Project (Dutton, October 1971), 250 pp.  
<sup>46</sup> *Struggle for Justice: A Report on Crime and Punishment in America* (Hill and Wang, November 1971), 17911.  
<sup>47</sup> *Struggle for Justice: A Report on Crime and Punishment in America* (Hill and Wang, November 1971); Quoted in Jessica Mitford, 'Prisons: The Menace of Liberal Reform', *The New York Review of Books*, March 9th, 1972, p. 29.  
<sup>48</sup> Jessica Mitford, 'Prisons: The Menace of Liberal Reform', *The New York Review of Books*, March 9th, 1972.  
<sup>49</sup> *Ibid.*, p. 29.  
<sup>50</sup> *Struggle for Justice*, November 1971; quoted, *The New York Review of Books*, March 9th, 1972.  
<sup>51</sup> Mitford, *The New York Review of Books*, March 9th, 1972, p. 30.  
<sup>52</sup> *Struggle for Justice*, November 1971; quoted, *The New York Review of Books*, March 9th, 1972, p. 31.  
<sup>53</sup> *Ibid.*  
<sup>54</sup> *Ibid.*  
<sup>55</sup> *Ibid.*  
<sup>56</sup> *Ibid.*