1. Apply Hoose’s Proportionalism to issues of capital punishment. (30)

Bernard Hoose’s Proportionalism is a hybrid of Natural Law, which also adopts the principle of Agape from Fletcher’s Situation Ethics. Although it is a deontological ethic, which recognises Aquinas’ Five Primary Precepts of Natural Law, it does also recognise that at times, there may be a proportionate reason to go against these moral principles, particularly if the end result would be agape. For this reason, Proportionalism is also seen to be a teleological ethical theory as it looks at the end outcome of an action.

Hoose’s proportionalist maxim ‘it is never right to go against a principle unless there is a proportionate reason which would justify it’ could be said to be a useful when considering issues surrounding capital punishment. Whereas Natural Law would almost certainly forbid Capital punishment as a direct violation of the primary precept to preserve life, a proportionalist may argue that there may, at times, to be a proportionate reason to allow capital punishment and to therefore break a precept of natural law.

Hoose distinguishes between evil moral act (acts which are always wrong, such as murder in cold blood, for example) and pre-moral/ontic evil acts (a bad act that in itself is not immoral). Taking these teachings into account, it could be argued that Proportionalism should not allow the death penalty, as it directly violates the Primary Precept of preserving life. The death penalty is killing another person, which could be claimed to be an evil moral act. Hoose did recognise that some acts are always wrong. In this sense, he differs from Fletcher. “An action born of love can be wrong, while an action not resulting from love can be right.” One might argue that there is never a proportionate reason to put someone to death.

However, following the same teachings, it may be argued that at times, there is a proportionate reason to put someone to death, even though it breaks a moral rule. For example, would it be immoral to sentence a serial killer to death? The proportionate reason may be that in doing so, society is being protected from further evil. Society is also learning that such acts receive a severe punishment, which in return fits in with another principle of Natural Law, which is learning. Perhaps in this instance, capital punishment is not an evil moral act, but an ontic evil act.

Similarly, Hoose also makes a distinction between a right act (an act that follows the moral principles of Natural Law, such as keeping a foetus even if it is unwanted) and a good act (an act that is

not a right act, but creates the lesser of two evils, such as promoting justice). This may also be applicable to capital punishment. One could never argue that capital punishment is a right act, since it violates several principles of Natural Law. It means taking someone’s life, therefore taking their ability to learn, to reproduce and to worship God. However, at times, capital punishment could be seen as a good act, since it creates the lesser of two evils. A Proportionalist would need to weigh up which is the lesser of evils. If we allow a murderer to live, we may send a message to society that murder is tolerated. If we allow capital punishment, we might not even need to use it, but it could act as a deterrent in the same way that nuclear weapons are used as a deterrent against nuclear war. We might also enable victims and their families to feel that justice is being done. Perhaps, in some situations, capital punishment may be a right act.

When applying Proportionalism to capital punishment, the proportionate reason to allow capital punishment should be linked to agape. What is the most loving thing to do in each situation? A Proportionalist must look at the act as a whole, and also to consider the long term consequences. In some countries which practise capital punishment, it could never be seen to be carried out due to agape. Many countries that carry out capital punishment do so for fairly minor crimes. Amnesty International‘s research and campaigns show that in countries such as China, trials are carried out unfairly, without the right to legal representation. China do not disclose the official number of executions since many are carried out secretly. Amnesty believes that at least 10,000 people in China are executed secretly each year. Amnesty International has also demonstrated that in China, people are kept on death row for years, never knowing when they will be put to death. This is inhumane, and could never be seen as agape. There could never be a proportionate reason to practise capital punishment in this way.

However, in countries such as the United States (several states practise capital punishment), it could be argued that trials are fair. The sentences are given based on clear evidence. A person has opportunities to appeal their sentence. We may argue that when this is the case, it may be loving to carry out capital punishment, particularly if it benefits society and contributes to the safety and well-being of society.

Overall, it is clear that Proportionalism does not offer a definitive response to the issue of capital punishment. In each individual situation, it must be considered whether there is a proportionate reason to carry out capital punishment. Would the end outcome be the most loving thing to do for all? In some situations, the answer may be yes, whereas in others, the answer may be no.