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Table of Contents

TABLE OF CONTENTS	1
ABSTRACT	2
INTRODUCTION	4
WHAT IS THE ROLE OF INTENT IN EVIL WITHIN TRADITIONAL CHRISTIAN THOUGHT?	7
AUGUSTINE.....	9
PELAGIUS	14
AQUINAS.....	20
SUMMARY ARGUMENT	24
DOES INTENT SERVE THE SAME PURPOSE WITHIN ENGLISH AND WELSH CONTEMPORARY LEGAL FRAMEWORKS?.....	26
MURDER AND MANSLAUGHTER	29
HATE CRIME.....	32
CAPACITY OR INTENT?	39
SUMMARY ARGUMENT	43
IS INTENT TRULY IMPORTANT IN OUR UNDERSTANDING OF EVIL?	45
BIBLIOGRAPHY	57

Does Evil Require Intent? A Comparative Analysis of the Importance of Intent in Augustinian
Theodicy, Associated Traditional Christian Thought and Contemporary Legal Frameworks in
England and Wales

Abstract

This work aimed to critically compare, against the backdrop of various legal, philosophical and theological arguments, the role that intent plays in the conceptualisation of evil within traditional Christian thought, with a particular focus on Augustinian theodicy and that of associated thinkers, and the legal frameworks of England and Wales, as a contemporary alternative to Christian thought as a guiding moral code in modern society. Evil (or wrongdoing) is a frequently referenced concept in both instances. The law serves in the broadest sense to punish wrongdoing and evil, whilst within Christianity, the avoidance of evil, as it is understood as the antithesis of the good of God, forms the bedrock of what it is to be a good Christian. Despite this, the way in which this is understood in the context of intent varies significantly between them. This analysis discusses how, within the works of Augustine, Pelagius and Aquinas, intent is an essential component of our understanding of moral evil, with this deriving entirely from our corruption of free will. Without this capacity to freely intend to perform a moral evil, these traditional Christian thinkers overwhelmingly argue that true evil cannot occur, regardless of whether the action itself is perceived as wrong. On the other hand, within the legislation surrounding murder, manslaughter and hate crimes in England and Wales, it can be seen that intent serves a purely instrumental role, functioning to clarify the differences between actions for the sake of sentencing without actually altering the base wrongness of an action if not present. These differences are subsequently discussed in turn for their merits, limitations and implications, and then

reviewed with a view to establishing whether intent is genuinely necessary to truly understand what it is to be and do evil.

Introduction

The concept of evil is a potent one. It is a term neither foreign nor rare to us, one that exists in almost every culture (Leezenberg, 2019, p.23), and one that invokes images of the very worst that humanity can be. But to argue that familiarity breeds a universally agreed conceptualisation here would be false.

Many definitions of evil have been formulated over the span of human history. Derived from the Proto-Germanic *ubilaz* and later *yfele* in Old English (Veremchuk, 2021, p.197), the word evil is representative of the greatest degree of disparagement, worse than merely bad, and traditionally used where we would now use words like sin or extreme moral wickedness (Harper, 2001). Plato saw evil as a disorder of the soul caused by ignorance (Betti, 2023, p.1-3), Aristotle as the privation of good (Kane, 1980, p.45), whilst Nietzsche rejected the term entirely, arguing it an illusion (Nietzsche, 1999, p.224).

More modern definitions of evil centre on notions of profound immorality and extreme harm. Despite the debate as to how we should define evil, the fact remains that evil is a uniquely human concern (Kekes, 1988, p.13), and whilst we may draw distinctions between natural and moral evils, the latter of which being the sole focus of this work, no animal considers evil in the way a man does. As such, we alone are left pondering what it is to be and do evil.

In Western philosophy, theological accounts like traditional Christian thought have historically dominated much of the conversation about what evil is (Rae, 2019, p.36). Christianity, in the most simplistic terms, puts the concept of evil in opposition to the good of God (Little, 2024, p.52). And whilst the Bible defines what evil is in this way, traditional

Christian thinkers like Augustine and Aquinas have expanded on this throughout history to draw more conceptually coherent conclusions regarding moral evil in particular; that is, that this evil is an incorporeal product of human will, separate from God and entirely derivative of our intentions (p.63,66).

By placing moral evil within the locus of humanity's intentions and free will, traditional Christian thought argues that this cannot arise without intentionality; we must possess a self-determining free will to govern our actions and minds away from God in order to commit evil (Swinburne, 1998, p.35). Thus, this thought forms the basis for one side of the current debate: Can we truly understand what evil is if we accept that it must always be intentional?

The use of the term traditional here is a deliberate one. After all, the most recent of the Christian scholars this work will discuss is Aquinas, who was writing in the 12th century. In the modern era, it would be remiss to ignore secular moral codes as potentially more relevant, given that a growing proportion of the United Kingdom now claims no religion (Office for National Statistics, 2022). So, in an attempt to contrast some of the most influential figures of a major world religion against something even a fraction as prominent and powerful, this work turns to the law, specifically the law of England and Wales.

Whilst traditional Christian thought views intent as an irremovable facet of evil, the law posits a decidedly more complex and potentially internally contradictory role for intent. Namely, whilst intent is important and written into our laws explicitly, as seen in examples like manslaughter versus murder (*Homicide Act 1957*), the reality is that this does not serve to define acts like manslaughter as not an evil or wrong because it lacks intent (Wilson,

2007, p.167). As such, whilst Christianity views intent as a logical necessity in removing evil from God, the law views this as an additional, heightening factor; it makes an action worse and more punishable, but it does not render an action moral or immoral alone.

And thus, the second element of our debate is formed; is intent actually required to consider something evil, or is an act evil or immoral of its own accord, with intent only heightening the degree of culpability we can apply to the actor?

However, this is not to say that either position is without fault. Well-argued and valid criticisms have been levied against both positions (Russell, 2014) and will be addressed before any attempt to answer this question is made. With this in mind, this work aims to examine the issue of intent in evil further within traditional Christian thought and the contemporary legal framework of England and Wales. In comparing the two distinct philosophies, the hope is to offer a potential answer to the question of whether intent is a required facet of evil or if we can truly understand evil without it.

What Is the Role of Intent in Evil Within Traditional Christian Thought?

Evil, as a general term within canonical Christianity, is an incredibly complex yet essential concept (Kilby, 2024). The duality between good and evil in the context of God is a cornerstone of morality within the Christian faith, and significant space is given to explaining what constitutes evil. Within the Bible, several texts across both Testaments provide the foundational framework for the understanding of evil within the Christian tradition. Perhaps most notably *Genesis 3* (NIV). The story of the Fall is the first instance where we see the notion of evil as, in the basic sense, acts which oppose God, introduced to the world through the actions of Adam and Eve.

In this, the Bible sets an interesting precedent and presents a significant theological issue. Namely, if God is accepted as essentially omnibenevolent and omnipotent, and we made in His image, then the presence of any evil, be it natural (occurring through natural forces and not attributable to the actions of human free will) or moral (occurring as a result of the actions or intentions of a human agent) (Nagasawa, 2024 p.22-23), in our world would run fundamentally contrary to His existence, as an all-good God would surely not allow for such evil. As such, theologians have long been left with the question: if God does exist, and evil cannot be seen to originate from Him, then from where does it originate?

In response to this, we see the development of the *privatio boni* theory of evil. That is, evil is best understood not as a substantive thing created by God, but as a privation or absence of good. Further reflections within *Romans 5:12* and *James 1:13–15* (NIV) reinforce the idea that moral evil and sin in particular originate not from God and place the onus of this on the moral choices of humans as rational agents. In the former, we establish Adam's original sin as the precursor to all sin and evil in the world, while the latter discusses how sin arises by

virtue of our failure to avoid temptation. These passages collectively point to humans alone as the creators of evil and serve as the scriptural basis for later works on the nature and origins of evil.

This theory, most notably espoused by Augustine (Calder, 2007, p.372), has elicited innumerable responses within the Christian tradition and has profoundly influenced theological and philosophical accounts of evil, particularly in the works of Augustine, as mentioned above, but also Aquinas and Pelagius. And whilst privation theory is no longer as prevalent in Christian thought (p.379), the notion of humanity's will and intentions as in some way essential in moral evil is still decidedly relevant and seen within each of the above works.

Augustine posited that, as all humans bear Adam's original sin, through this we inherit the capacity to intentionally turn away from the will of God to produce evil into the world by our own merit (*De lib arb. 1.4.10*). Pelagius, by contrast, emphasised the capacity of human beings to choose good or evil without any form of predetermination (*To Demetrias 4.1*), thereby placing himself in stark contrast with not only Augustine but also the predominant Christian doctrine of the time. And thereafter, building on the commonly held Augustinian premise, Aquinas maintained that moral evil consists of a privation within action, which, though potentially the result of ignorance or error (I-II, Q. 21, Art. 3, co.), still presupposes an element of wilful intent.

And whilst significant differences between the works of these three figures should not be disregarded, the named theologians all present vitally important treatises of evil with varying focuses and understandings of how intent plays a role in this. As such, this chapter

seeks to examine, within the works of each of these significant figures in the Christian tradition, the extent to which moral evil necessarily requires the presence of an ill will or intentionality, against the backdrop of the precedent set by Augustine.

Augustine

As one of the most prominent Church Fathers, Augustine (354–430 CE) is often credited with shaping the Christian doctrine of original sin and emphasising the importance of divine grace in salvation (Mann, 2001), thereby establishing the foundations of the view still dominant in much of Western Christianity. In particular, his views on free will, human culpability for sin and our capacity for good and evil have had a lasting impact on both theology and philosophy, and it is here that the present discussion will centre.

Perhaps the most relevant of Augustine's works surrounding the nature of evil is *On Free Choice of the Will* (*De libero arbitrio voluntatis*). In this work, Augustine focuses on the roots of evil stemming from a corruption of free will. Comprising three books, Book 1 addresses the nature of evil and to what extent a human action can be considered evil or sinful, whilst Books 2 & 3 discuss how it is we possess the capacity to do evil in the first place.

In the first of these books, Augustine argues that evil derives not from action itself but from inordinate desire (*De lib arb. 1.3.8*), or lust, driving the act. For instance, when discussing murder in the literal terms of taking a life, Augustine poses that a soldier murdering an enemy out of fear for their life is not necessarily evil, for the soldier, by acting in accordance with the law and their orders, acts without inordinate desire or choice (*De lib arb. 1.5.12*).

The law allows us to act according to what is right, and acting as an agent of another removes the capacity to choose actions for our own ends. On the other hand, a slave

murdering their master for the same fear is inherently evil, as the latter is a choice made entirely of inordinate desire to live without fear for his own gain, despite the law.

Augustine uses this example, amongst others, to explain that this desire for temporal rather than eternal things is the root of all evil. Whilst eternal things preserve the moral integrity of the self in line with God's word, temporal things are transient, lesser and capable of being lost to us against our will (Mann, 2001, p.45). When we prioritise the acquisition of temporal things over eternal, greater goods, as in the case of the slave, we damage this integrity and distract from what is truly important, moving us away from God.

This first section of the *De libero arbitrio* highlights several key implications for the present discussion. First, Augustine stated that this misguided orientation towards temporal things and, thus, evil occurs only when we choose and voluntarily intend to turn from the divine (*De lib arb. 1.4.10*). Babcock (1988) argues that this early work suggests that humans are fundamentally capable of making choices that oppose God, via a love of temporal things (p.35), and that only we are culpable for this choice because it is by virtue of free will alone. Whilst we may be tempted by inordinate desire, he stated that human nature is fundamentally good according to Augustine and that nothing but the mind controls the mind; only the will can move itself in this way. Thus, indicating that we must intend to commit sinful acts.

Furthermore, Babcock (1988) explains that, whilst it is true that the intricacies of Augustinian theodicy changed in response to the likes of the Manichaeans and Pelagius, Augustine remains fairly consistent in the assertion that one can only be seen to have sinned

if they freely did so despite the presence of a morally righteous alternative (p.40-41); presenting to us again the centrality of the will in sin.

Augustine would later define sin as the "will either to keep or to obtain something that justice forbids when there is freedom to abstain" (In *On Two Souls, Against the Manichaeans*; taken from Babcock, 1988, p.37). By this definition, the *De libero arbitrio* suggests that when we possess the freedom to choose our actions under our own agency, only the nature of our intentions can determine the moral quality of our actions. In this, we have turned our minds away from eternal things by virtue of our intentions, and therefore have committed an evil, culpable to us, that puts virtue out of reach (*De lib. arb. 2.19.53*). And whilst it remains true that certain actions like murder are always wrong, Augustine can be seen to argue that when we are genuinely forced to do so, only then are our actions even remotely permissible.

With the nature and cause of evil addressed, Book Two proceeds to dissect the role of the will in evil more centrally and offers a resolution to the problem that arises when we attribute evil to a God-given thing: humanity's free will. The resolution offered by Augustine is that evil must be caused by humanity's abuse of free will (*De lib. arb. 2.20.54*). Specifically, that evil is not innate to human nature, for nothing created by God could be evil, as this would implicate God.

Here, Evodius presses Augustine on why humans possess free will, for if it is the underlying cause of evil as seen in Book 1, then surely, without it, there would be no evil. In response to this Augustine asserts that free will should be counted as a good thing (*De lib arb. 2.1.3*). One example given compares this ability to pervert the purpose of free will, to having hands;

with hands humans can do good, but just because some choose to do evil with their hands this does not lessen the fundamental goodness of them or mean that we would not be missing a comparatively greater good without them (*De lib arb.* 2.18.48). The argument persists that whilst the will can be perverted to lead to sin, free will is still good because it is God-given, and our capacity to sin through it does not negate this.

Augustine's summarising comment is perhaps the most relevant in terms of the present argument: "Tell me now, which is better: something without which we *can* live rightly, or something without which we *cannot* live rightly?" (*De lib arb.* 2.18.49). Whilst God may allow evil to exist through the will, we are left with no other conclusion than that He is still right to allow us this will because, without it, we cannot be guided by Him to do good in the first place. Augustine states that to live a good life, we must be guided by and seek God's grace because, whilst we may be free to choose a morally right path, we find this difficult to do and are easily tempted, so we will often default to sin in the absence of God's grace (Stump, 2001, p.132). So, we need God to strengthen our will towards Him and away from temporal things.

In his *Augustine on Freedom and God*, Brown (2005) elaborates further on this within the context of wider philosophical debates and criticisms of Augustine. Brown states that Augustine's argument for the necessity of God's grace in a truly free will cannot be seen to align with either compatibilism, which would render true human freedom impossible (p.62), nor libertarianism, which would separate human agency from God entirely (p.63). Instead, he states that in stressing the importance of both, Augustine presents a view in which divine grace enables and guides human freedom and morality, without contradicting it (p.56). In so doing, Brown argues that Augustine preserves both the necessity for divine grace and the

moral culpability of humans by virtue of our capacity to exercise free will and intentionality in our actions (p.59), thus rendering intent central to the moral quality of actions.

Furthermore, Stump's analysis (2001) of Augustine's stance on free will in the *De libero* supports the conclusions of Brown (2005) whilst also offering further insight into this issue surrounding free will and its role. Stump (2001) highlights how Augustine simultaneously rejects an inherently sinful human nature whilst also supporting the notion that we are responsible for our actions via a self-determining will (p.125). Where we understand the will as in no way directly determined by God, either for good or evil, Stump argues that this suggests that any actions derivative of it must be considered to be self-determined (p.131-132).

As such, by Augustine's own theodicy, we must view the actions of the will to be freely chosen and therefore culpable to us, as we are a. not being forced to sin¹, and b. incapable of choosing a morally righteous alternative without God's grace (Stump, 2001, p.133).

Therefore, Book Two reaffirms that intent and the will are necessary for an action to be considered evil.

When we consider the above in the context of the prerequisites discussed in Book 1, without the capacity to choose our actions freely, we cannot be seen to be culpable to the same degree. Furthermore, if we did not possess the capacity to choose to follow God's word, there would be no genuine virtue as this would be forced upon us, not a moral choice we actively make (*De lib arb.* 2.1.3). As such, in both instances, we require free will for there to be any true metric of morality in human behaviour.

¹ This sentiment is echoed further in Book three – *De lib arb.* 3.4.10

And whilst the *De Libero Arbitrio* is just one work in a significant catalogue, in terms of the discussion regarding the necessity for intent, Augustine's exploration of free will and evil here offers a vital understanding of human culpability and the nature of evil. The notion that humans are capable of sin through their own choices but require grace to guide the will toward the good, coupled with the assertion that moral evil arises not from actions but from the misuse of free will, has significantly shaped Christian orthodoxy and places free will and intent at the very heart of a modern Christian conceptualisation of evil.

This overarching emphasis on the freedom to choose highlights Augustine's belief that genuine moral agency and responsibility require free will, making it essential for both virtue and sin; and it is this position in particular that would place Augustine in conflict with the Manichees and, most notably, Pelagius, whom we will discuss in the next section.

Pelagius

The work of Pelagius represents a divergent and historically controversial alternative to the orthodoxy purported by Augustine. Pelagius (354-418 CE) was a Christian monk, theologian and renounced heretic. Aside from his accused heresy, little is known of Pelagius's life, and even fewer of his works have survived him independently of the works or bias of others (Evans, 2010, p.1-6). Despite this, he is best known for his views on free will, as well as human nature and moral agency, the latter of which sharply contrasts with those of Augustine and prompted a significant body of work refuting his beliefs (p. 66-71) and those of his contemporaries.

The conflict between Pelagius and Augustine, although complex and both historically and contextually bound (Breckenridge, 1970, p. 30; Allen, 2019), can be summarised as

fundamentally revolving around human nature, original sin, and divine grace. And whilst each of these elements will be discussed fully in turn in the section to follow, it is necessary to address this in brief before continuing.

On the one hand, Pelagius's work argues that humans are born without inherited sin and possess the ability to choose good or evil without the need for intervention or divine grace (*To Demetrias* 2.2; Wolfson, 1959, p.556). On this, Pelagius argued that God's grace was helpful but not essential, as genuine moral responsibility necessitates a fully self-determining will, which would be nullified if it could be seen as determined (*To an Older Friend* 1.5), even from God as the creator. On the other, Augustine states that all humans inherit original sin and the capacity to corrupt free will (*De lib. arb.* 2.20.54), rendering them incapable of true good without God's grace (Stump, 2001, p.132). He maintained that grace is not merely external guidance but an essential component of faith that serves to liberate and guide us away from sin.

And whilst the bulk of Augustine's 'anti-Pelagianism' work, like *De Libero Arbitrio*, was written before any interaction between the two, there still exists a significant body of work from the theologian either directly addressing Pelagius himself or his doctrine (*The Retractions* 1.8.4-5; Squires, 2025, p.17) that has significantly shaped the history of scholarly literature surrounding Pelagius².

Nevertheless, the present work will seek to discuss, as impartially as possible, his contributions to the larger debate regarding free will and intent in evil. To which he can be

² Most notably in his *A Work on the Proceedings of Pelagius* (2015, Ch. 59), Augustine, addressing the Bishop of Carthage Aurelius, argued that whilst Pelagius himself may have been acquitted of heresy at the Synod of Diospolis, his beliefs remained heretical and should be condemned.

seen to have not only influenced Christian thought by his own merit³, but also indirectly through the works of his critics, like Augustine.

One of the most foundational concepts within Pelagius' doctrine is the nature of humans in relation to good and evil. In particular, Pelagius argued that human nature is fundamentally good and that we sin not out of some innate flaw or inherited sin, but rather by habit and weakness to vice (Harrison, 2000, p.81). He stated that, over time, sin clouds our judgement and makes it harder for us to pursue good. Augustine, by contrast, argued that whilst human nature was inherently good, it was also the case that we are ignorant of good and inclined towards sin more readily, only capable of avoiding this with God's grace.

In the intricacies of this position, we begin to see the divergence of Pelagius' view. For Pelagius, the Augustinian doctrine that we require God's grace to know what is good diminishes personal responsibility and reduces us to passive recipients of God's grace (Harrison, 2000, p.79). He stated that not only are humans good by virtue of having been created by God, but that we possess the ability to understand the difference between good and evil, choosing to do good or evil by nothing but our will (*To Demetrias 4.1*). He reasoned that goodness can be seen in those who are strangers to God, and that this contradicts the notion that we require God's guidance to achieve goodness, for those who do not believe would surely not be privy to this (*To Demetrias 2.2*; Wolfson, 1959, p.556).

It is this view that is particularly important. Pelagius stressed that for humans to be considered truly responsible for good or evil, we must have the capacity to choose, in full knowledge, whether we partake in sin. In his letter *To Demetrias*, Pelagius states, "...so that

³ increasingly so in modernity (Allen, 2019, p.4-5)

we may not seem to be forced to do evil through a fault in our nature, when in fact, we do neither good nor evil without the exercise of our will and always have the freedom to do one of the two... For on what grounds are some to be judges, others to be judged unless it is because the will works in different ways." (*To Demetrias* 8.1). There are several implications to be considered here, the first being that Pelagius was not the first to differentiate the nature of our actions by virtue of our will in this way. The reality is that various figures in the Christian tradition have long emphasised the role of the will in human morality.

Breckenridge's (1970) review of Pelagius' fall from monk to heretic offers considerable insight into Pelagius' beliefs within the context of early developments in Christian thought. Breckenridge places Pelagius' doctrine within the context of a growing affinity for Stoicism at the time, wherein freedom and humanity's moral autonomy were seen as the only avenue to true virtue. Citing notable figures such as Marcus Aurelius and Justin Martyr (p.31), Breckenridge⁴ suggests that Pelagius' teachings represent not an unfounded misinterpretation, but a progression of a growing Stoic thought.

Crucially, Breckenridge (1970) argues that Pelagius' renunciation resulted not entirely from a rejection of his views, nor from the authority held by Augustine's opposition, but from a need to distance Christianity from perceived paganism (which favoured positions like stoicism, p.30). Breckenridge goes on to discuss that though Pelagius' doctrine on grace has been widely condemned by Western Christianity, in terms of the base understanding of free will as God-given and essential to morality, his views can be seen to reflect elements of those held by others like Augustine (p.34).

⁴ See also Allen, 2019

Whilst the differences between the two adversaries cannot and should not be ignored, the notion that we have free will and that this is what determines the morality of our actions is found throughout the history of the Christian tradition (Wolfson, 1959, p.556). When we consider this and what this means, it stands to reason that the notion that intent as a function of free will was and remains decidedly important within Christian conceptualisations of evil.

The next of these implications necessitates a discussion around Pelagius' views on original sin. A term coined by Augustine (Patte, 2019), original sin refers to the inherited state of sinfulness that all humans possess as a result of Adam's Fall. Augustine believed that the sin of Adam transformed human nature and resulted in our current state, whereby we are born with sin and are therefore incapable of choosing not to because our will is weakened (Mann, 2001, p.47). Augustine stressed the necessity of God's grace, saying that without it, we are not capable of overcoming sin.

Pelagius' teachings differ significantly and form the cornerstone on which his controversy and eventual condemnation would stand (Wolfson, 1959, p.555-556). Namely, he rejected Augustine's stance on two fronts; the first being that by this definition, humanity would never be able to achieve genuine righteousness, for we could never be seen to have done so by our own merit if we rely on God's grace to guide us. The second, that the insinuation of sin in our nature risks excusing our actions by virtue of them not fully being attributed to our will, thus rendering us unaccountable for them (*To an Older Friend 1.5*).

In his rejection of this interpretation, Pelagius once again stresses the importance of free will and intent as a requirement for evil. Curtis (2016) discusses this concept alongside Pelagius's

ideas regarding what it meant to be a true Christian. In essence, God's word set forth the standard by which all humans must live, but then He gave us free will to allow us the choice to follow His word and achieve righteousness by our own merit, differentiating us from those who fail to do so (*On Bad Teachers 18.1-3*). Therefore, only by this metric can sin, disobedience, and evil be understood as a failure to choose correctly that which leads us away from sin.

When we consider this within the realms of the present argument, the Pelagian doctrine of free will rests on the notion that if humans were born without this capacity to choose, this would be sufficient to constitute a determined state that would reduce our responsibility for evil. Pelagius can, therefore, be seen to overtly advocate for the necessity of having actual control and intent over our actions and, by extension, support the view that free will is a fundamental component of evil.

Pelagius' teachings on human nature and the role of free will in evil present not only an interesting alternative to Augustine's, but also several significant implications for the present discussion. In emphasising the inherent goodness of human nature and the role of an essentially self-governed free will as central to morality, Pelagius highlights the importance of moral autonomy and the need for genuine choice and intent in the understanding of right and wrong.

However, whilst these ideas dubbed him a heretic to history, this conceptualisation of evil as fundamentally stemming from ourselves and our choices is present in the decidedly less controversial doctrines of Aquinas, whom we will discuss next, and at the basest level (in terms of the role of free will), Augustine. And though the specifics of Pelagius' doctrine have

been largely either condemned or superseded, it would be an oversight to ignore his contributions to the present discussion regarding the importance of intent in evil. Even more so to fail to tentatively recognise the similarities between his stance and that of Augustine and Aquinas.

Aquinas

Aquinas (1225-1274) developed a view of free will and evil that built upon the ideas of philosophers such as Aristotle as well as the aforementioned theologians, and is largely considered one of the most important Christian thinkers, with his relevance prevailing well into the modern era (Upham, 2012, p.511-532). Aquinas' teachings can be seen to affirm many of Augustine's beliefs; as such, his work contributed significantly to the prevalence of Augustinian doctrine throughout the Christian faith.

Despite this, it would be remiss to neglect the differences between Aquinas and Augustine. While both argue that divine grace is necessary to overcome sin, Aquinas expands on this position, asserting that grace heals and elevates the will, enabling humans to then choose the moral good (Stump, 2008, p.391-392). In this, Aquinas both upheld the common Augustinian understanding and addressed the intricacies of human moral agency in a way that avoided the heresy of the likes of Pelagius (p.381) and offered a comprehensive framework for our understanding of free will and morality.

Aquinas addressed the nature of evil primarily within his most notable work, the *Summa Theologica*. Intended initially as an instructional piece for students of theology (Kreeft, 2011, p.33), the *Summa* leads the reader through fundamental theological concepts and questions from within the Christian faith, including but not limited to: the nature of God, free will and

morality. Divided into three main sections, Aquinas systematically presents each question, its support, rebuttal and his conclusions. It is by virtue of this breadth and systematic nature that Aquinas is capable of presenting one of the most precise explanations of evil as it is understood by the Christian faith (Stump, 2008).

Beginning with Question 19 of the *Prima Secundae* (Of the Goodness and Malice of the Interior Act of the Will), Aquinas addresses how an insubstantial evil can be present in relation to human action and how it is one's intentions that govern this.

In the seventh article, the objections detailed here address the relationship between the will (or our intentions) and the end goal in choosing to do something. "The act of the will cannot be said to be good, if an evil intention is the cause of willing. For when a man wills to give alms for the sake of vainglory, he wills that which is good in itself, under a species of evil; and therefore, as willed by him, it is evil. Wherefore his will is evil." (ST I-II, Q. 19, Art. 7, ad. 2). This article explores the fundamental difference between the intent behind an action and the result, highlighting the fact that the two are not dependent on each other. Even when the end result is good, if the intent behind the action is evil, it remains evil.

McCluskey (2014, p.89-92) argues that by differentiating between the act and the will in this way, Aquinas ultimately concludes that the morality of our actions is entirely dependent on our intentions. We are not capable of virtue unless it is guided by a genuinely righteous will. Whilst we may choose to do outwardly good things, if the intention behind them is false or evil, we have still failed to achieve goodness. As such, we can deduce that Aquinas' understanding and teaching of evil is bound within the intention that underpins those acts.

Question 21 (Of the Consequences of Human Actions by Reason of Their Goodness and Malice) discusses what it is about an act that causes it to be either right or sinful, but also under which circumstances these actions are then praised or blameworthy. Focusing on Articles 2 through 4, Aquinas discusses concepts such as natural evil and illustrates how such 'evil' is blameless because it cannot be attributed to the voluntary actions of an agent (McCluskey, 2014, p.65-66; Andrew Downing, 2009, p.795). Namely, where we can conceive of natural "evils" occurring by virtue of the suffering caused, as they are not capable of being credited to somebody in the same way as human evils, they do not warrant the same blame as voluntary actions for they are essentially determined by the very nature of the agent (ST I-II, Q. 21, Art. 2, ad. 1).

Lee (2000) addresses this issue in depth and provides vital context for the present argument. Lee maintains that whilst good can be seen to result from humans and God, evil is "solely from the human being and is not traced back to God" (p.265). Whilst God can lead humans towards good, as this is His nature, it is only through the deficits of humanity that we produce evil (I-II, Q. 18, Art. 1, co.). To which, evil is therefore said to be caused only by the secondary cause, humans, not God Himself. As such, if God is understood as in no way intending for humans to sin, this cannot be attributed to Him, and He is therefore exempt from blame. With this in mind, if secondary causation is not sufficient to constitute guilt, only specific intent can be seen to produce evil.

This notion is reiterated in the third article. Here, Aquinas argues, "It is therefore evident that a good or evil action deserves praise or blame, in so far as it is in the power of the will" (I-II, Q. 21, Art. 3, co.). Once again, this raises that it is the intentions behind our actions that produce quantifiably different moral definitions and consequences for our actions.

McCluskey (2014) expands on this issue in terms of voluntariness. She argues that Aquinas' stance on moral wrongdoing centres on this notion of voluntariness and that one cannot be reasonably considered guilty for sins that we do not voluntarily commit.

In terms of the present argument, the concept of voluntariness (as far as we recognise it to be synonymous with intent) raises an important implication; if one is not guilty of an act if it is not intentional, then an unintentional or involuntary act cannot be seen to be a wrongdoing in the same sense (McCluskey, 2014, p.91-94). It is necessary to note that Aquinas does not excuse unintentional sin and offers little leniency for ignorance. However, in the realms of the present issue, it is still fair to conclude that intent and the will meter the degree of moral wrongdoing and evil and are therefore essential.

Furthermore, whilst the concept of evil and sin in Aquinas' writing is fairly well established, insofar as it is a privation⁵, there is a degree of distinction made regarding how this is understood from a moral perspective. In particular, we see that our actions are considered decidedly more blameworthy only if we are aware of the consequences and choose to actively participate in them (Williams, 2019, p. 252). Reichberg (2002) interprets this as Aquinas stating evil to be a 'wilful inattention to the moral rule' (p.754). In which moral evil occurs because our will essentially ignores guidance from God towards morally righteous action. And whilst Reichberg does maintain the Thomistic stance that we are not capable of evil for evil's sake (p.774-776), what we can conclude here is that evil is in at least some respect dependent upon intentionality and the free movement of the will away from good.

⁵ Although there is some debate as to whether later writings appear to suggest some positive existence to evil (Reichberg, 2002)

As such, the *Summa Theologica*, in building upon a substantial body of theological and philosophical work, ultimately refines the Augustinian notion of divine grace to suggest that while God's grace is necessary for us to avoid sin and understand moral righteousness, free will is still the primary mechanism in good and evil and is therefore fundamentally important.

Aquinas' contributions not only reconciled the notion of human moral agency with the role of divine grace but also highlighted the importance of intention in our understanding of moral wrongdoing. By suggesting that evil stems from voluntary acts influenced by free will, Aquinas established an ethical system that holds us to be active moral agents capable of being accountable for our actions by virtue of our free will. The distinction between the perceived morality of an action and the morality of the will underpinning it laid the groundwork for the continued development of early Christian understandings of evil and free will.

Summary Argument

In framing God as an omnibenevolent creator, the Christian tradition has long faced the issue of why evil is permitted to exist in our world under Him. Through the works of Augustine and Aquinas, especially, but also through those of Pelagius, the question, whilst not fully resolved, has been comprehensively addressed by placing the onus on humans as the instigators of evil by virtue of our free will and capacity to turn from God.

And whilst the scope of this work necessitates leaving many elements of this discussion unaddressed, such as those pertaining to arguments for and against compatibilism or libertarianism and even the full extent of the problem of evil in this context, what becomes

evident when we review these works as a collective is a fundamental and consistent emphasis on the notion that self-determining free will is the root of evil and that it is our intentions, derivative of this, that determine the moral quality of our actions.

This conclusion is only strengthened further when we see the difference in regard given to unintentional or coerced sin versus intentional sin, with the former provoking a lesser degree of reproach. If evil or sin is not willed, nor freely committed, in large we see the perception of the act and the actor shift to something decidedly less immoral. As such, if we accept that we are the engineers of evil, with the capacity to self-govern and intend what we wish, then evil can only derive from ill-willed intention, rendering those intentions essential in the concept of evil.

In the next section, we discuss how this position differs from contemporary legal arguments within England and Wales. Whilst historically we have turned to religion to inform our understanding of right and wrong, in an increasingly secularised Britain, the law has come to replace this for many people. As such, where we recognise evil as an inherently moral concept, with the law now significant in shaping our moral understanding, a review of this in a contemporary sense offers an interesting series of counterarguments to the above theological positions, in which we will generally see intent as either irrelevant or deliberately absent from the understanding of evil or moral wrongdoing.

Does Intent Serve the Same Purpose Within English and Welsh Contemporary Legal Frameworks?

Both Augustine and Aquinas recognised the law as a legitimate standard by which humans should live. Augustine saw the law as rooted in God's eternal justice. He argued that earthly laws are only legitimate if they align with eternal law, the divine order of God that governs the universe towards true justice (Coleman, 2015, p.196). On this, Augustine stated that whilst human law could not bring about morality or re-educate the disordered will of men, it exists as a necessary instrument to restrain sin and maintain peace in society (p.197-198). The authority with which the state exercises this is guided and ordained by God's will to ensure man's conformity to the natural, divine law.

Aquinas, building on Augustine and Aristotle, developed a systematic theory of law, distinguishing between four types of law: eternal, divine, natural (derived from God) and human (Lisska, 2015, p.288-302). For Aquinas, human law is limited in its scope as it cannot possibly restrict all sin (Lisska, 2015, p.300) as such he argued that it is the responsibility of the law to restrict that which is most damaging to society, knowing that virtuous people, by following the natural and divine laws, can avoid anything not directly prohibited by the state with God's guidance.

As such, whilst both theologians recognised eternal and divine laws as superseding human law in regard to determining morality, the recognition of 'just' human law as needing to be reflective of God's word and the Christian moral standard, illustrates a firmly rooted understanding that the law is a sufficient yardstick by which we can judge human morality. However, in a modern, increasingly secular era, wherein a growing proportion of people hold

no religion, the law can be seen to some degree to have taken over this function, both guiding and being guided by our shared morality and values (Berger, 2011, p.131-132, 152)

That being said, in the case of English Common Law, defined by Zimmerman as “a mixture of customary law, judge-made law and parliamentary law” (2013, p.86), we see significant influence stemming from the Christian tradition. Zimmerman goes on to explain how, by virtue of the dominant Christian culture of England at the time our laws were established, even if the legislation itself is not overtly Christian in nature, the moral convictions of the legislators, such as William Blackstone (p.94-96), and society of the day shaped the laws and legal principles that we in some instances still practice, to represent a series of fundamentally Christian values (p.98). As such, a great number of our laws and legislations are distinctly representative of a dominant Christian theology and morality.

Even when we look to the contemporary English government, within the House of Lords, there exists a group of up to 26 Lords Spiritual, senior bishops of the Church of England, who hold seats in one of our highest houses of government (Davies, 2003, p.15). And whilst this possible 26 makes up only a small minority of seats in the House of Lords, it would still be negligent to assume no influence of the church on the inception of our laws.⁶

This, therefore, begs the question: having already established the significance given to intent within evil and morality in early Christian doctrine, do our modern laws, with a lingering

⁶ One notable example includes the second reading in the House of Lords regarding the *Marriage (Same Sex Couples) Act 2013*, in which a movement to reject the bill was supported by 9 of the sitting 24 bishops at the time, with the remaining 15 either not present or not voting (Davies, 2013; *Marriage (Same Sex Couples) Bill [HL] Bill 34 (2013)*).

Christian ethos, place the same degree of importance on intent as those early Christian thinkers?

In order to explore this issue, the role of intent in the criminal law of England and Wales for the offences of murder, manslaughter and hate crime will be reviewed. These specific crimes have been selected for two reasons: the first, due to the gravity of the crimes themselves. Whilst contemporary societies and their legal frameworks have largely moved away from categorising any behaviour as evil (for various reasons; Garrard, 2002; Cole, 2006), these crimes represent a subsection of what are generally held to be the most serious in the case of murder and manslaughter, or an illustration of a heightened degree of wrongdoing in the case of hate crimes.

The second, due to the significant emphasis placed on intent within the legislation of each. As the following analysis will show, in each example discussed, intent is a crucial differentiating factor when determining charge and/or sentence (Crown Prosecution Service, 2022, 2024). As illustrative instances where the law differentiates between otherwise objectively identical acts, these examples do bear consideration in the present discussion as they are indicative of genuine differences in the way we perceive certain acts by virtue of the underlying intention (Wilson, 2007, p.163).

With this established, the following section will also examine the role of intent and capacity as potential alternatives in criminal law statutes, alongside various philosophical underpinnings of each. This is done with an aim to determine whether, in the context of evil or ethical wrongdoing, intent serves as a purely distinguishing feature or a moral one in terms of our understanding of these acts.

Murder and Manslaughter

In England and Wales, the Crown Prosecution Service (2024) defines murder as “the unlawful killing of another living (breathing) person by one of sound mind... with the intent to kill or cause grievous bodily harm”. By contrast, manslaughter is defined in two ways: the first is killing with the intent of murder but where a partial defence is applied, and the second is where an unlawful killing is done without an intention to kill or cause grievous bodily harm (*Homicide Act 1957*).

To ignore the prerequisite intent forms here would be unfounded, given that otherwise the acts are identical and at face value, this argument may seem more in line with the previous conclusions drawn regarding theological doctrines; however, the aim here is not to argue legal differences and their impact on sentencing (for which this definition is actually most relevant), but on the act in itself. At its basest level, the law is undeniably clear: killing is morally wrong and is rightly punishable. It is this facet of the law that we aim to discuss further.

Where we recognise the role of intent in these definitions, what is evident is that intent alters only our perception of the degree of wrongness in an action, not the objective nature of whether that act is immoral. Wilson (2007) argues that the law surrounding murder and manslaughter is reflective of essentially ineffable moral standards that are ingrained in us (p.163). We recognise the sanctity of life and the age-old ‘do not kill’ moral imperative that causes us to know that taking a life is wrong, regardless of intent. He concludes that the law should be and is largely driven by this imperative in a way that makes moral sense to us,

resulting in laws that differentiate between distinct legal wrongs based on the level of intent, rather than levels of culpability for both are wrong and therefore worthy of blame (p. 167).

The argument for moral imperatives as a defining factor in our understanding of morality, both in and outside of the law, is a concept that has firm philosophical grounding. In his *Groundwork of the Metaphysics of Morals* (1998), Kant establishes that, as rational beings, humans are bound by one singular categorical imperative, “There is therefore but one categorical imperative, namely, this: Act only on that maxim whereby thou canst at the same time will that it should become a universal law.” (p.51) He argued that this imperative is the prerequisite for the existence of a moral law and must, by definition, be universally applicable, unconditional, and grounded in our rational understanding of what is good, beneficial and allowed for everyone.

Kant’s thesis of the categorical imperative as a moral principle is extensive and beyond the realms of the present issue. However, later in the *Groundwork* (1998), Kant offers several different formulations of this principle as illustrative examples. The second of these formulations is particularly relevant here. The formulation of humanity states that all humans possess an inherent, absolute worth (1998, p.55-56) by virtue only of their existence, and should therefore never be treated as only valuable in a determined way. Kant argued that when we treat others merely as a means to an end rather than as an end, we violate the categorical imperative and perfect duty to each other (p.56-57).

By this definition, murder violates this second formulation and is, ergo, always morally wrong. When we intend to kill, regardless of motivation, we are using another as a means, and therefore act in contempt of their inherent value. Wilson’s (2018) review of Kant’s

doctrine of nonviolence illustrates this through the example of self-murder (suicide) given in the second formulation. Namely, if suicide is morally wrong for disregarding the integrity of oneself, then by that logic, this principle also applies to the killing of others (p.5-6). Crucially, it is worth noting that by this definition, genuinely unintentional manslaughter would not necessarily violate the categorical imperative (Kant, 1998, p.33). Though tragic, the action was not committed with an immoral intent or rationale; therefore, it lacks any moral consideration due to it not being willed.

However, the reality is that many of the acts that would be tried as manslaughter under English and Welsh law, e.g. vehicular manslaughter, negligence, would still breach the categorical imperative due to the failure in our duty to others.⁷ Additionally, if everyone did this, society would become very unsafe, so the action cannot be universal, nor in keeping with the requirements of the categorical imperative. Thus, this would still be considered morally wrong and justly prohibited by the law, albeit to a slightly lesser extent. As such, whilst it is valid to state that intent still alters the degree of perceived wrongness under Kantian deontology, it would be unfounded to state that intent, as understood legally, is always vital in determining the wrongness of an action.

Furthermore, even when we recognise the legitimacy of the intent qualification, the relationship between the two is complex and contextually bound. Wilson suggests that a person shooting 'for the fun of it' into a random house who happens to kill someone will

⁷ For instance, Dowie (2022, p.27-29) argues that if someone were to drive drunk and kill someone, even though they did not intend to, they have still done so and have done evil by failing to consider the impact and duty of their actions.

generally provoke more ire from the average person than someone who shoots another person out of revenge (Wilson, 2007, p.165), for while unintentional, the first is a reckless action that causes the suffering of an innocent. By the word of the law, the former is manslaughter (due to its unintentionality), whereas the latter is intentional murder, worse and more heinous.

Although we may, on an individual level, view one as more wrong than the other for various reasons, both are still considered immoral. The law may distinguish between murder and manslaughter, but the reality is that we as moral agents draw our own conclusions as to whether an act is more or less wrong than another, regardless of it. As such, what is evident is that intent alters only our perception of the degree of wrongness in an action, not the objective nature of whether that act is wrong.

As such, whilst intent may be written into our legal systems primarily to aid descriptive clarity, it does not alone change the base wrongness of an act. In the case of killing, it has no bearing on the suffering caused and is not universally considered. Instead, killing is best understood as an inherent violation of moral law, which we respond to with a series of rational arguments and imperatives to determine the morality of an argument.

And whilst the law utilises intent as a classifying factor in the distinction between manslaughter and murder, it is reasonable to conclude that it is not fundamentally essential in a basic understanding of immorality in this instance.

Hate Crime

The distinction between murder and manslaughter is an illustrative example of how intent appears and functions within our legal system. However, it would be remiss not to recognise

that the legislation codifying this is nearly seventy years old. As such, if we are to sufficiently consider how intent shapes our understanding of wrongdoing within the law as a modern secular moral code, it is necessary to consider a more recent example. As such, the second legal point here concerns the legislation surrounding hate crimes and commonly associated criminal offences, such as common assault.

Under English and Welsh law, a hate crime is any criminal offence wherein the offender is motivated by hostility towards an individual based on their possession of any number of protected characteristics⁸. By contrast, common assault is an act that “intentionally or recklessly causes another to suffer or apprehend immediate unlawful violence” (*Section 39 Criminal Justice Act, 2003*). Per this definition, what distinguishes a hate crime from an offence such as common assault is the hostility held by the perpetrator; any crime can be prosecuted as a hate crime if there is sufficient reason to suspect the offender has acted out of an established hostility towards the victims (Trickett & Bryan, 2025, p.25).

Here, hostility can fairly be likened to a form of intent (Craig, 2002, p.87) to cause harm towards an individual for no other reason than their membership of a group. However, whilst the law may identify specific prejudicial intent underpinning hate crimes as fundamental in their distinction from other crimes, it is unfounded to state that this intent is the factor that makes hate crimes immoral in the first place.

For one, hate crimes can be seen as particularly morally devoid due to the fact that they violate the principles of equality, wherein all people are entitled to the same regard and dignity in life. In his *The Harm in Hate Speech* (2012), Jeremy Waldron discusses how hate

⁸ As defined by The Equality Act 2010 (Crown Prosecution Service, 2022)

speech, and by extension hate crime, ultimately functions to undermine an individual's sense of dignity and the fundamental right we all possess to be treated as equals and to benefit from society in the same fashion.

A person's dignity, he writes, "...is not just some Kantian aura. It is their social standing, the fundamentals of basic reputation, that entitles them to be treated as equals in the ordinary operations of society." (Waldron, 2012, p.5). As such, when one commits crimes of hate, the act can be seen to be driven by the deliberate aim to disregard that person's dignity. In so doing, it revokes from that person what they are rightfully entitled: the capacity to exist in society as an equal member (p.108-9) despite the ingrained civic understanding that all people possess the same inherent worth.

The notion of a disregard for others as a driving force behind prejudiced wrongdoing and evil has been discussed at length by the likes of Hannah Arendt. In *Eichmann in Jerusalem: A Report on the Banality of Evil* (2006) Arendt argued that whilst Eichmann did wilfully contribute to the Nazi regime (p.83-111), he bore no extreme hatred towards the Jews, nor was he a fanatical antisemite, so it was not possible to attribute his involvement to any of these factors. Instead, Arendt argued that Eichmann came about his role purely owing to his being an ambitious yet deeply unsuccessful man (p.33) who possessed bureaucratic skill and a rudimentary understanding of Hebrew, thus allowing him to interact with Jewish officials (p.40-41). In short, he was useful, entirely egotistical in his motivations and eager to move up in the world.

As such, what she concluded is that it was the self-centredness and a thoughtlessness of others shown by Eichmann that made him so effective in his contributions to the Third

Reich, because it removed him from what was happening to his victims, and therefore any sense of moral strain he may have experienced had this not been the case (Minnich, 2024, p.166). As such, because his intent was entirely egocentric, it was not evil or even oriented towards evil because he wasn't thinking about anybody else, only himself. Ergo, we could argue that while the actions themselves were irrefutably evil, they did not require intent to be so.

Though it is true that Eichmann and the Nazi regime do represent an extreme example of the prejudice that underpins hate crimes, the notion of essentially disregarding the victims of one's actions is decidedly similar. In both instances, it is the failure to recognise, or a wilful ignorance of the intrinsic moral value of the people, that facilitates the capacity to ignore and rationalise one's actions.

And whilst it would be untrue to state that all hate crimes arise from a thoughtless disregard rather than an intentional one, where we consider hate crimes in conjunction with associated criminal offences like assault, fundamentally, what renders a hate crime immoral is this disregard for other people's rights within our society, not necessarily the intentional harm to the individual (Waldron, 2012, p.107), which is ultimately shared by any number of other violent crimes.

Furthermore, when we consider hate crimes specifically, what's particularly significant is that they are a decidedly illustrative example of how the impact on broader society is a consideration for our understanding of morality. Craig (2002) argues that hate crimes are a unique type of aggression and therefore have unique and often amplified effects not only on the direct victim but also the wider social group to which that person belongs (p.87-89).

Following a hate crime, Craig states that the targeted group will often change their behaviour and experience negative emotions (p.88) as a function of understanding themselves to have been symbolically targeted and therefore vulnerable. As a result, it is fair to say that hate crimes are potentially greater in their degree of immorality due to a heightened degree of malice underpinning them and the broader spread of suffering caused.

However, whilst the above may be true, and is recognised in the sentencing of the two distinct offences⁹, once again we see that the increased malicious intent of a hate crime is not what makes it wrong, the crime committed is what alone carries this label, with intent only heightening this.

This is particularly relevant if we consider the purpose of the law from a utilitarian perspective. Utilitarianism argues that morality stems not from any inherent feature of the action or agent but from its consequences (Mill, 2004, p.365-366). As such, what can be considered morally good is that which can be seen to benefit the most people, whilst immorality or evil is anything that results in the suffering of others, regardless of any other consideration, i.e. intent.

When we consider the law in these terms, utilitarians would argue that for a law to be just, it must aim to minimise suffering and maximise the overall happiness and stability of society. Jeremy Bentham discussed this issue at length in his *An Introduction to the Principles of Morals and Legislation* (2004). In this seminal work, Bentham introduces the concept of utility as that which augments happiness for either the individual or the community (p. 79). He suggests that the principle of utility is the most innate principle by which humans live and

⁹ Common assault generally carries a six-month maximum custodial sentence whereas a racially aggravated assault can carry a maximum seven-year sentence (Sentencing Council, 2021)

either condemn or applaud actions (p.81), with us understanding intrinsically that what causes suffering or does not seek to avoid it (Mill, 2004, p.367) is opposed to this principle and therefore immoral.

Bentham argues that our laws reflect this fundamental concept; we recognise crime as actions that tend to bring about suffering, and that this alone is sufficient grounds for their punishment (2004, p.121). On this basis, the law and its legislators should serve to protect the happiness and security of the people in that community (p. 103, 123), and anything violating this is morally reprehensible and should be punished accordingly, and in proportion with the degree of suffering caused (p.131-142).

Bentham's work has several applications to the present discussion of hate crimes. For one, if we consider Craig's (2002) discussion of hate crimes as an inherently greater form of suffering by virtue of their damage to the individual and their community, utilitarian ethicists like Bentham would agree that they are therefore decidedly more evil by virtue of the added suffering caused. As such, we see a significant degree of support from this field for the increased sentencing and condemnation.

However, what is notably absent from Bentham's work, but also utilitarianism more generally, is any consideration of intent as a defining feature in our perception of wrongdoing. While true that Bentham does discuss how the punishment of unintentional acts can be seen as largely ineffective for various reasons (2004, p.126-127), this does not in turn discuss the net morality of the unintentional act as being in any way changed; the act remains opposed to utility and therefore immoral.

As such, if we accept the law as operating from a fundamentally utilitarian perspective, it is reasonable to conclude that intent is a decidedly unimportant factor in the establishment and purpose of this law. We understand inherently that causing the suffering of others is actually what renders an act in opposition to what is right, not the intention that underpinned said actions.

Furthermore, looking more broadly at the works presented within this section, we are able to draw the same conclusion as that seen regarding murder and manslaughter. Intent serves the sole purpose of creating clarity in the legal system, forming the bedrock for the increase in sentencing, in this instance, by virtue of disregard for others and the nature of the crime in a broader societal sense. Still, it does not determine whether an action is wrong in the base sense. Meaning, it does appear that the law and the Christian tradition differ significantly in terms of the role of intent in understanding evil and immorality.

However, the potential rebuttal exists that the intent discussed by Augustine is more akin to capacity (*De lib arb.* 2.1.3. Babcock, 1988, p.40-41) and therefore not directly synonymous with intent in a legal context, wherein the latter is better understood as meaning to do something (Williams, 1987, p.417)¹⁰. So, in order to address the matter here, we will discuss the difference between capacity and intent arguments with a view to establishing whether any similarities between the law and the Christian tradition exist if we analyse under these terms instead.

¹⁰ See also the notion of *Mens rea* (Lanius, 2019, p. 113)

Capacity or intent?

The law of England and Wales distinguishes two types of intent in criminal law. The first, direct or specific intent, refers to acts committed when the defendant's specific aim was to cause the outcome or harm in the context that has occurred (Williams, 1987, p.420-421). Indirect or oblique intent occurs when the defendant did not purposely desire the outcome, but it is recognised as a reasonably certain consequence of their actions, of which they were aware (p.421). Capacity, on the other hand, refers to an individual's ability to understand and make informed decisions regarding their actions and the consequences of them (*Mental Capacity Act 2005*).

With this established, we must consider, as we did in the case of indirect and direct intentions, the differences in legal proceedings concerning killing, whereby an individual is recognised as having diminished capacity. Diminished capacity serves as one of several partial defences one can hold from a murder charge. Under *Section 2 of the Homicide Act 1957* and *Section 52 of the Coroners and Justice Act 2009*, the law states, "Where a person kills or is party to a killing of another, he shall not be convicted of murder if he was suffering from an abnormality of mental functioning". In these instances, the charge of murder is reduced to voluntary manslaughter.¹¹

As such, we see that intent and capacity serve the same function in terms of impact on charge and sentencing. For one, they allow for the reduction from murder to a manslaughter charge. However, we are left with the same question concerning whether a change to the moral judgement on an action occurs by virtue of a diminished capacity plea.

¹¹ Precedent established in 'R v. Byrne' (2022)

H.L.A. Hart wrote extensively on the issue of responsibility pleas and morality in a number of works; most relevant being his seminal work *The Concept of Law* (2012). Here, Hart establishes the distinction between justifications and excuses and their impact on the morality of action (p. 179). The former is seen when a given rationale renders the act outside the scope of the law's prohibition, i.e. self-defence killings, while the latter only renders the individual incapable of conforming to the law. In this, he argues that justifications ultimately make an act permissible, whilst killing is usually legally and morally wrong, self-defence killings encompass a series of additional factors that render the act acceptable to a degree. On the other hand, excuses acknowledge the inherent wrongness of an act like killing and do not change this, but instead result in the person being seen as less culpable.

The above has interesting implications for the present discussion. For one, Hart's definitions of justifications and excuses give a degree of credence to the legal distinction between self-defence killings and diminished capacity killings. In the UK, self-defence is a valid legal defence that, when the force is deemed reasonable and proportionate, can result in the complete acquittal of an individual from a murder or manslaughter charge (*Criminal Law Act 1967*)¹². Diminished capacity, on the other hand, whilst reducing the crime from murder to manslaughter, still constitutes a crime with a penal sentence.

When we consider this in line with those conclusions already drawn regarding intent in the legal system and Hart's arguments regarding the morality of an act, we see that diminished capacity does not impact the moral nature of the act in itself, only the individual's

¹² See also 'Beckford v The Queen' (1987)

responsibility. Therefore, it would be fair to conclude that capacity does not differ from intent under Hart's premise, thus maintaining the differences already identified between the law and traditional Christian thought.

Additionally, Harry Frankfurt's work also supports the notion that while we may adjust our perception of an individual with diminished capacity's moral responsibility, we do not necessarily change our understanding of their actions. In his *Freedom of the Will and the Concept of a Person* (1971), Frankfurt establishes the grounds under which an individual is regarded as morally responsible for their actions. He argues that personhood is fundamentally necessitated by the capacity to form second-order desires; the capacity to not only want something (these are first-order desires), but to understand, identify and reflect on what we want to want and then act in a committed, free way to achieve these first and second-order desires (p.10).

To this end, Frankfurt argued that an individual is only morally responsible for their actions if they are capable of acting in accordance with their will, or second-order volitions (p. 18). However, he also argued that in those instances where an individual is moved by extraneous factors, such as addiction (p.12-13), they are rendered incapable of acting in accordance with their second-order desires. As such, these individuals cannot be understood to be fully culpable, regardless of the objective morality of the action itself.

The latter of these distinctions is particularly relevant here. Where we accept that an individual judged to have a diminished capacity by the law is considered to have been moved by an external factor, i.e. neurological/medical disorder (Owen et. al, 2009, p.5), then one could argue that these individuals would not be capable of acting autonomously (p.11)

in line with their true second-order volitions and are therefore not morally responsible for their actions.

Furthermore, if we take Frankfurt's example of the unwilling addict (1971, p.12), case law does point to addiction as valid grounds for a diminished capacity plea. In the appeal of the case of 'R v Tandy' (1987), the jury were directed to consider that if the defendant were drunk by virtue of an inescapable compulsion rather than by choice, then a partial diminished responsibility defence would be available on the grounds of an abnormality of mental functioning as outlined by the *Homicide Act 1957*.

And whilst the plea in this instance was ultimately unsuccessful, the precedent set that addiction can be sufficient grounds for the reduction (but not acquittal) of a sentence from murder to manslaughter does support Frankfurt's thesis of morality as predicated by a capacity to actively participate in one's second-order volitions without external influence. Therefore, we are left with the same conclusion in this instance that we see regarding Hart's work: capacity functions similarly to intent in the legal system, reducing our moral judgement of the individual, not the act itself.

As such, whilst the law allows for diminished responsibility to mitigate charges from murder to manslaughter when abnormal mental functioning is established, both case law and philosophical theory support that this is indicative of a perceived reduction in culpability of the individual, not a reassessment of the moral status of the act itself.

In this, we see a distinct similarity between the roles of intent and capacity despite their differing legal definitions. And whilst there may be debate as to which is the most appropriate counterpart to intent, as it is discussed by early Christian thinkers, the reality is

that neither is considered as centrally in the determination of evil or immorality as they are within the Christian tradition. Therefore, it is still appropriate to conclude that neither intent nor capacity is essential in the context of evil or wrongdoing, as per the legal framework of England and Wales.

Summary Argument

When we consider the implications of this section for the present discussion, it is evident that the notions of intent and capacity serve a mostly intuitive function within the legal system rather than a distinguishing one; we understand that a negative or malicious intent makes our actions decidedly more harmful and that this should rightly be recognised and punished to a greater extent.

Despite this, it would still be unfounded to state that intent or capacity alters the fundamental morality of the acts themselves. And whilst both influence the severity of the sentencing and condemnation attached to an act, this is by virtue of either the increased harm seen to be caused by that intent or the agent's circumstance rather than by redefining the moral core of the act in any way.

In this, the law reflects a deep-rooted moral consensus that specific actions, like killing or assault, are inherently wrong regardless of motive or capacity, with intent only serving to amplify this when present. As such, intent in this context is better understood as a mechanism for refining the *degree* of immorality, rather than establishing criteria of whether an act is immoral at all, where it can be argued to be largely irrelevant.

In an attempt to offer an answer to this question of whether evil requires intent, in the final section of this work, the above analyses of both traditional Christian thought and the legal

framework of England and Wales will be reviewed with the aim of establishing whether intent is essential in our understanding of what makes an act evil. As well as this, I shall assess whether either stance, intent as necessary or not, is a sufficient enough explanation alone, consider a number of comparatively more integrated approaches and then attempt to draw a conclusion as to whether intent is important in our understanding of evil.

Is Intent Truly Important in Our Understanding of Evil?

Throughout this work, traditional Christian thought and the contemporary legal frameworks of England and Wales have been presented as two oppositional stances on whether evil requires intent. In the former, I have argued that it is intent alone that determines the evilness of an action, whilst in the latter, we have seen that intent is not as centrally considered. And whilst each argument has a significant body of supporting work, the issue remains as to whether either can be considered to have offered a more compelling explanation of whether evil requires intent.

At the basest level, the traditional Christian theodicies of Augustine, Pelagius, and Aquinas conceptualise moral evil as distinctly rooted in the corruption of the will, arising entirely from the actions of humans as good but fundamentally imperfect beings, weak to vice and corruption (Stump, 2001, p.132; Harrison, 2000, p.81). Here, intent functions as the hinge upon which the moral status of human action rests. Augustine, Pelagius and Aquinas each emphasised that an action's moral worth is dependent not on the action but on the intent of the person as a moral agent.

Augustine's *De libero arbitrio* first established that moral evil arises when the will turns deliberately from God, choosing temporal goods over Him (*De lib arb.* 1.4.10). As such, Augustine grounds evil in the internal locus and freewill of the person rather than in the act itself; motive or intent is everything (Babcock, 1988, p.35). For Aquinas, an act is only good when its underpinning intention is ordered towards a righteous end (ST I-II, Q. 19, Art. 7, ad. 2). If the person's intention is corrupted, even those acts which appear outwardly good can in truth become evil. The inner movement of the will, therefore, serves as the determining factor in morality, whereby an act that lacks an evil intent cannot be seen as an evil

(McCluskey, 2014, p.91-94) because evil presupposes a conscious turning away from the divine.

And whilst Pelagius is an often-cited opponent of Augustine, he echoes this sentiment that intent is central in evil (*To Demetrias* 8.1; Breckenridge, 1970, p.34). Whilst issues surrounding the role of divine grace and original sin in human morality set the Brittonic monk apart (Wolfson, 1959, p.555-556), Pelagius still argues that sin arises from an individual's deliberate failure to choose righteousness in full knowledge of what God wants and what is good (*On Bad Teachers* 18.1-3; *To Demetrias* 4.1). In the context of this issue, Pelagius shares with Augustine and Aquinas the view that moral evil requires choice and is perhaps the staunchest advocate of this conceptualisation of evil as entirely derivative of the will.

When viewed collectively, these three theologians illustrate an enduring Augustinian paradigm, one in which moral evil fundamentally requires and is a matter of intent. To act without knowledge, control, or wilful desire may bring harm, but does not constitute an evil in the same sense (*De lib arb.* 1.5.12; *To an Older Friend* 1.5; McCluskey, 2014, p.91-94). Evil instead originates entirely from the wilful departure of our hearts away from God, an action that is solely derivative of the agent's will. As such, within traditional Christian thought, intent is imperative for our understanding of evil as a moral concept.

However, this is not to say that this conceptualisation of evil is without fault. One example that illustrates the limitations of this doctrine in modernity is accidental road traffic fatalities. In England and Wales, where a road death occurs but no intent, recklessness or any other form of direct culpability for the death can be proven on the part of the driver, neither

murder nor manslaughter is deemed to have occurred, and, of potentially greater significance here, no moral condemnation is placed on the driver¹³.

This example presents interesting implications for traditional Christian thought in the context of the present argument. Under the terms outlined here, this act, by virtue of its lack of intentionality, is not evil, despite the fact that a life has been taken essentially by the actions of another. This echoes Augustine's own example of the soldier killing without inordinate desire or choice (*De lib arb. 1.5.12*); where an action is outside of our capacity to choose otherwise, we are perceived to have not committed an evil.

Regardless of this, whilst the action is entirely unintentional, it does not automatically follow that no harm that may be perceived as evil has occurred. The victim's family may still perceive the event as evil, given that a great pain has befallen them. Furthermore, Christianity ranks the prohibition of the taking of a life as one of the most fundamental rules in Christianity through the inclusion of "Thou shalt not kill" in the Ten Commandments (*Exodus 20:13*, NIV). It is therefore potentially contradictory and damaging to the argument that evil always requires intent that, even when a proscribed evil has occurred, this is only considered as such under set circumstances.

On the other hand, in the law, factors like intent, can be seen to primarily serve to allow legislators to differentiate between which crimes and sanctions are best applied based on previously agreed and socially constructed rules and regulations (Searle, 1950, p.50; Schauer, 2005, p.496), as opposed to being the deciding factor in whether something is

¹³ 'R v Hughes' (2013)

considered wrong or right. And while this is not to say that intent is not relevant within criminal law, it can, however, be seen to serve a different role.

When we look again at the instances of murder, manslaughter and hate crimes, some actions like killing or assault are recognised as inherently wrong (Wilson, 2007, p.163-167) and unlawful regardless of motive, with intent simply distinguishing between offences and sentencing. In this, the law can be seen to align more closely with a utilitarian philosophy, in that evil is defined not by intention but by the suffering it causes (Bentham, 2004, p.121; Mill, 2004, p.365-366). A negligent act that causes great harm may be judged more severely than a deliberate act that results in a lesser degree of harm (Dowie, 2022, p.27-29), in spite of intent.

Yet despite this, it is vital to recognise the extent to which intent is a genuinely meaningful legal concept, particularly in relation to an individual's responsibility for an action. Despite being fundamentally concerned with outcome, rather than the morality of an action, through concepts like direct and oblique intent (Williams, 1987, p.420-421), and the legislation surrounding diminished capacity pleas (*Homicide Act 1957, Coroners and Justice Act 2009*), we do see an attempt to assess the degree of culpability through metrics of intent and capacity. As seen in the work of Hart (2012, p.179), excuses like unintentionality do not justify an act or reduce its inherent wrongness, instead serving only to gauge the level of responsibility held by the individual. In this, the law's treatment of intent is significant, albeit with a different focus.

Furthermore, were we to consider both traditional Christian thought and the law of England and Wales in terms of which is more significant in determining our understanding of evil or

immorality today, it would perhaps be valid to deduce that the view of intent as it is seen within the legal tradition, as a largely intuitive tool, is the most relevant. The primary reason for this being that, in the context of England and Wales today, less than half of the population of the United Kingdom identifies as Christian (Office for National Statistics, 2022). By this metric, given that the law therefore guides the morality of a greater proportion of the population (Berger, 2011, p.131-132, 152), it would be reasonable to argue that more significant grounds to treat intent as an instrument for clarifying and distinguishing between offences exist.

However, it is necessary at this stage to consider the purpose of each philosophy and the questions they actually seek to answer in relation to evil. On the one hand, traditional Christian thought seeks to understand why and how evil exists. Whilst the law seeks to understand how best to address and punish those acts which harm us.

This distinction is important, given that the law does not seek to define evil in the same way that traditional Christian thought does. Instead, the law's primary objective is to achieve justice and protect the people in a community (Bentham, 2004, p.121-123). In this context, it is understandable that intent serves primarily to measure blame and punish wrongdoing in the context of disregard of agreed-upon laws in a society, rendering the action a crime (Singer, 2004, p.190), even where an action lacks the underlying will required by theological definitions of evil.

Yet, whilst legal frameworks like that followed within England and Wales remain a valid comparative tool in terms of whether we can understand evil without requiring intent. It would be unfounded to ignore that fundamentally evil is a moral concept with an

irremovable moral dimension (Lima, 2005, p.246). As such, to conclude that evil can be truly understood within these terms alone, with no consideration for internal functions like morality, would also be groundless.

One example where the law's consideration of intent may render it an ineffective model of evil can be seen in relation to the *Sexual Offences Act 2003*. Under *Section 5*, an individual can be charged with rape if they are found to have had sex with a child under the age of 13, even if this is found to have occurred without the perpetrator's knowledge or intent.

Specifically, in this case, the law applies that the defence of reasonable belief, wherein the perpetrator had a genuine cause to believe the victim was above the age of consent, does not apply.

Although the sexual assault or rape of a child is irrefutably morally wrong and evil, it is also the case that, to most, an individual who does this with malicious and deliberate intent has committed a far greater evil by virtue of that intent. Furthermore, if we recognise that the law does, in some instances, punish proportionally with consideration of intent, then this example could be seen to contradict this underlying principle seen in the examples of murder and manslaughter, wherein intent is recognised and heightens the severity of the sentence (Wilson, 2007, p.167).

This is decidedly absent in this law, unlike others previously discussed, with all individuals found guilty being liable to life imprisonment regardless of circumstance. As such, in treating intentional and unintentional instances of the above in the same way, the law could be argued to neglect the fact that, whilst that the act itself is the true evil and should warrant punishment regardless of intent, intent does significantly heighten the depravity and

resultant harm attached to it (like that seen with hate crimes; Craig, 2002, p.88-89) and thus should, in theory, be subject to a greater severity of punishment as a result. And whilst the above example is not a perfect one, given the strong moral ground for the necessity of this degree of child protection, it is illustrative of the potential issues concerning the legal framework of England and Wales's treatment of intent.

By only considering the intent behind an action sometimes, the law's use of intent is fundamentally contradictory. Whilst the laws surrounding murder, manslaughter and hate crime can be seen to reflect the utilitarian philosophy of suffering, not intent, as the true metric of evil, we also see examples such as that detailed above where this is not the case and our condemnation of an action is instead based on fundamentally moral grounds. This disconnect lies essentially within this argument as to what the purpose of the law is. In seeking to achieve justice and protect, rather than define evil, the law cannot be seen to regard intent universally, given that, on occasion, we rely on this intent to measure harm and punish proportionally, whereas on others, we simply don't

In truth, when considered in isolation, both positions face limitations. The described traditional Christian view of evil, in which intent is the foundation of evil, risks removing the issue of morality from its real-world complexities and consequences. By stating that evil is exclusively the product of the will, we risk overlooking the suffering caused by some genuinely unintentional acts (Svendsen, 2010, p.83-84). Whereas a legal perspective of evil risks reducing morality to a criterion, a list of factors that must be present (Searle, 1950, p.50), thus overlooking the important moral distinction between deliberate cruelty and accidental harm. Ergo, it becomes necessary to seek out a more integrated approach to

understanding the role of intent in evil, accounting for both the orientation of the will and the reality of harm.

One attempt to recognise the relationship between harm and motivation in evil can be found in Calder's (2013) *Is evil just very wrong?*. Here, Calder attempts to ascertain whether evil is a distinct moral category from wrongdoing. He argues that evil possesses two essential facets: significant harm and an intention to cause harm (an e-motivation). Of the first of these requirements, Calder relies on an intuitive understanding of significant harm, that being anything that a "rational human being would take considerable pains to avoid" (p.12). Of the second, Calder elaborates on the notion of an e-motivation, specifying this to mean an inexcusable intention to bring about significant harm for an unworthy goal.

Through the example of Hitler, Calder illustrates both elements of his theory. He argues that Hitler's actions were inexcusably evil because he both brought about significant harm and death to millions and did so with a culpable intent that could not be nullified by arguments for mental illness, socialisation into antisemitism or any supporting evidence that would render his actions 'worthy' (2013, p.12-14)¹⁴.

The use of Hitler here is an obvious but nonetheless important defence for Calder's argument. When we think of evil, Hitler is often the first instance most people would think of (Svendsen, 2010, p.18). The especially heinous nature of Hitler's actions is perhaps best understood when we consider not only the initial intention but also the gravity and extent of the harm caused. And whilst it is not the aim of this work to compare or quantify evils,

¹⁴ See also Jones (1999)

despite other historical atrocities having resulted in higher death tolls¹⁵, the Holocaust is almost unique by virtue of the systematic and state-sponsored nature that allowed for such significant suffering to occur on the scale it did, but also because it was underpinned by the explicit aim to completely eradicate the Jewish people.

This is not to say that, in the terms discussed in this work, Hitler's actions wouldn't be considered evil if we took only one of the facets proposed by Calder, for both the specific intention required by traditional Christian thought and the harm required by the law are present. However, it remains true that by considering both equally, we perhaps have better insight into why the Holocaust is often the foremost example in most people's conceptualisations of evil.

Despite this, one criticism of Calder's theory is the same one levied against many a theory of evil, and the traditional Christian thought already discussed in this work. If evil requires specific intent, what do we call those actions that cause significant harm but lack intent? (Morton, 2004, p.5). One possible solution to this is argued by Russell in his 2014 book *Evil: A Philosophical Investigation*. Here, Russell advocates for a conceptual pluralistic view of evil on the basis that evil is essentially a family resemblance concept¹⁶ (p.24) that cannot be reduced to the set of conditions proposed sufficiently by either 'thick' or 'thin' accounts of evil.

Specifically, Russell (p.122) argues that the focus on harm as seen in thin accounts, like Card's (2002) 'deplorability thesis', is too narrow a definition to fully conceptualise evil, given

¹⁵ For instance, the Congolese genocide under King Leopold II is estimated to have killed an estimated 10 million people (Nzongola-Ntalaja, 2013, p.22)

¹⁶ A concept not defined by a single definition or feature but by a series of overlapping ideas or similarities (Wittgenstein, 1958, p.31-32)

that they would render a number of intuitively evil actions as not evil or vice versa dependent on whether any harm arises (he provides the example of foiled terrorist attacks as evil regardless of the fact that no harm actually came to anyone). Similarly, he concludes that the requirement for an internal or psychological feature found in thick accounts like Calder's (2013) and Garrard's (2002) may risk overlooking genuinely evil actions that do not possess such internal evil motivation (Russell, 2014, p.119).

In this work, Russell presents compelling arguments for both positions but ultimately fails to conclude that either has sufficient support to nullify the other (2014, p.129). He argues fundamentally that no single perspective is capable of fully encapsulating what evil is. Instead, Russell concludes that firstly, there are a multitude of valid conceptions of evil, with neither the thick nor the thin being adequate every time. Second, that for his analysis, evil is best understood as an action that is appropriately connected to an extreme culpable harm (p.4, 129-131).

These two conclusions leave us in a problematic position; if no single definition of evil is ever universally applicable, then the question of whether intent is required for evil becomes impossible to answer. However, while I recognise the legitimacy of Russell's argument against a singular definition of evil, I also suggest that, perhaps unintentionally, his inclusion of the term 'culpable' does bridge the gap between intention and consequence, drawing his argument closer to Calder's than it first appears.

Concerning the inclusion of culpability as a prerequisite for evil, in the context of the present discussion, we have concluded that, according to both theological and legal arguments, culpability can only be assigned to those deemed to have sufficient free will and control over

their actions (Frankfurt, 1971; Babcock, 1988). We have also seen that as we use and understand the concept of free will, it is synonymous with intent. As such, by distinguishing between evil and wrongdoing in terms of culpability, Russell can be seen to still argue for some degree of importance to intent in evil, given that free will is what allows for culpability and intent.

To address the matter of whether evil is best understood in a pluralistic way, I circle back to one of my first arguments. In the introduction of this work, I stated that evil is an almost uniquely human concern (Kekes, 1988, p.13). We offer little to no assessments of evil in the natural world unless they can be seen to have caused harm to humans in some way. And where we recognise the actions of humans as different from animals, or from 'natural evils' purely by virtue of consciousness and an ability to draw moral judgements, without even some consideration of intent, this evil loses its human dimension and essentially all meaning as a category of action (Ellens, 2011, p.10-12). Whereas with intent, it becomes the deliberate assertion of self over good and what we inherently understand to be right (Perrett, 2002, p.304), and it is this disregard, rather than merely the harm it causes, that constitutes the very essence of evil.

To this end, I argue that a thick definition of evil, one that recognises intent as central, offers a more complete picture of evil, more of the time. And while yes, these definitions are potentially flawed in all the ways discussed by Russell (2014, p.93-111), in understanding evil this way, we recognise that evil is not a matter of intent or consequences, but an essential combination of the two. These two dimensions are distinct yet necessarily interdependent. Intent serves to give evil its moral depth (Singer, 2004, p.193), whilst the recognition of harm

gives it a degree of social applicability it would otherwise not always possess (Burris, 2022, p.6). As such, to consider one without the other is to offer an incomplete picture.

In practical terms, the recognition of harm and intent collectively suggests that while the law is justified in focusing on harm with only a secondary consideration of intent, moral philosophy continues to offer a vitally important evaluation of the interior dimensions of evil, and should not be disregarded. In order to comprehend evil fully, we must acknowledge the interplay between inner intention and outward effect, rather than pitting either as a singular definition. Intent may not always determine fully whether an act is evil in a social or legal sense, but it remains a crucial component in determining whether an act is evil in a moral sense, arguably more important given that evil is a fundamentally moral concept.

Thus, the role of intent, though variably considered and applied between theology and law, remains vitally important to any comprehensive understanding of evil. Whilst true that the law may punish without universal regard for intent, humans as moral agents cannot dispense with it if we are to truly ascertain what it is to be and do evil.

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