

The Gospel of Life vs. The Death Penalty

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Pastoral Letter on Capital Punishment

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The Holy Father Pope John Paul II has challenged us to begin the new millennium with a renewed commitment to the Gospel of Life. An important way that we can promote the civilization of love in the new millennium is to call for the abolishment of the death penalty. Our task is to work for a more just society and for real solutions to alleviate crime and violence in our communities. The more respect we have for life, the safer our communities will become.

In a growing culture of death devoid of morality, we face the life-threatening issues such as abortion, immoral genetic practices and experimentation, civil strife, nuclear war, ethnic conflicts, euthanasia and capital punishment. These various assaults on life cannot be melded into a single problem. They are distinct, complicated issues that require individual attention, but they do form pieces of a larger pattern. When human life under any circumstance is not held as sacred in a society, all human life is diminished and threatened.

The Church's pro-life stance is consistent and is based on the theological affirmation that the person is made in the image of God, the philosophical assertion of the dignity of every person, and the Church's social teaching that society and the state exist to serve the person. Because we hold the sacredness of human life, the taking of even one person's life is a most serious event. Historically, the teaching of the Church has allowed the taking of human life only in very rare instances, viz., in the case of self-defense, and by extension of this principle, in the case of capital punishment.

It is not surprising that in our own 20th Century, the most violent century in recorded history, the presumption on the part of moralists against taking human life has been strengthened and the exceptions deemed ever more restricted. Certainly, the dramatic situation with legalized abortion has heightened our awareness of the urgent need to defend the sacredness of every human life.

The Supreme Court in its decision in *Georgia v. Furman* (1972) held that the death penalty as then administered did constitute cruel and unusual punishment and so was contrary to the Eighth Amendment of the Constitution. In *Gregg v. Georgia* in 1976, the court allowed states to resume using the death penalty. This decision claimed that new procedures would address the objections involved in the previous ruling and so set off the debate once again. Since that time, many people have been surprised that the Bishops' Conference has consistently opposed the death penalty, in spite of the contrary opinion of a majority of the Catholics in the United States. However, Catholic teachings are not based on polls, or prevailing sentiments, but upon the magisterium with the two-fold font of Scripture and Tradition.

The Myth of Deterrence

Since the popularity of the death penalty in great part issues from people's frustration over violent crimes, one of the most popular arguments in favor of the death penalty is its presumed value as a deterrent. The conventional wisdom is that we need capital punishment to discourage people from committing murder. Politicians often appeal to the deterrence factor as a justification of the death penalty. When Governor George Pataki signed legislation that reinstated the death penalty in New York in 1995, he stated: "This bill is going to save lives." Former Governor William Weld, in his attempts to reinstate the death penalty in Massachusetts, said: "my gut is that ... capital punishment is a deterrent." Nevertheless, more scientific approaches seem to indicate that capital punishment is not a deterrent.

Studies by Experts

A survey authored by Richard C. Dieter, Esq. that was conducted in 1995 involving interviews with 386 randomly selected police chiefs and sheriffs resulted in only one percent of the respondents choosing the death penalty as a primary way to reduce violent crime. The death penalty ranked last among six options. The most effective way named by the police chiefs and sheriffs was "reducing drug abuse," followed by, "better economy and more jobs." Simplifying court rules, longer sentences, more police officers, and reducing the number of guns were also considered to be more important as ways of reducing violent crimes than expanding the use of the death penalty. Of those interviewed, 67 percent termed inaccurate the statement: "the death penalty significantly reduces the number of homicides." Commenting on the poll, former New York Police Chief Patrick Murphy wrote: "Like the emperor's new clothes, the flimsy notion that the death penalty is an effective law enforcement tool is being exposed as mere political puffery."

A similar survey, by Michael Radelet and Ronald Akers, among the leadership of the country's largest associations of professional and academic criminologists, such as the American Society of Criminology (2,500 members) and the International Association of Police Professors (membership 2,400), likewise debunk the deterrent benefits of the death penalty. Of the experts interviewed, 80 percent stated that on the basis of literature and research in criminology, the death penalty does not have significant deterrent effects. It would seem that the best deterrence is crime prevention and dealing with the causes and situations such as poverty and drug addiction that foment crime and violence.

For any punishment to be an effective deterrence, it must be administered fairly and swiftly. Experience has shown how difficult it is to administer capital punishment "fairly and swiftly," (cf. the Supreme Court decision *Georgia v. Furman* and the moratorium on the death penalty as requested by the National Bar Association.)

When someone is accused of a crime, if he is poor or of a minority group, he is more likely to be condemned to death than someone who is wealthy and well-educated. The delays and costs involved in appeals and other necessary procedural safeguards make it impossible to execute criminals swiftly. Short of a reign of terror, one is hard pressed to conceive how the death penalty could be administered in such a way that it would become an effective deterrent. It would be much more feasible to improve court proceedings and bring about swifter justice if the maximum punishment would be incarceration without parole. Allowing months and even years to pass between the time of the arrest and the imposition of a punishment certainly undermines the deterrence value of any sentencing. In addition to vitiating any value as a deterrent, the prolonged proceedings of capital punishment subject the families of victims to tortuous years of criminal hearings and appeals, often preventing healing and closure in their lives. Expeditious trials and life sentences without parole for heinous crimes would be more merciful not only to the criminals but also to the families of the victims.

Danger of Error

Among serious objections to the death penalty is its irrevocability. The Marquis de Lafayette, who helped the Americans in our struggle for freedom and democracy, once declared in the French Chamber of Deputies: "I shall ask for the abolition of the punishment of death until I have the infallibility of human judgment demonstrated to me."

We do know that an overzealous prosecution, mistaken or perjured testimony, faulty investigations, the defendant's previous record, inept defense counsel, and community pressure for conviction can all contribute to a miscarriage of justice. The mistake is irrevocable once the accused is executed. On the other hand, guilty parties are sometimes not convicted because jurors fear sending someone to the gallows. In those cases the death penalty is a deterrence not to criminal behavior but a deterrence to convicting a murderer.

The sad truth is that our juries and courts make mistakes. Sometimes we exonerate guilty parties, but at times we err by finding innocent people guilty. It has been demonstrated that all too often innocent people have been found guilty of crimes they did not commit. Indeed the execution of an innocent man, Timothy Evans, was among the reasons for the abolition of the death penalty in Great Britain. In 1975, the government of Florida pardoned two African-American men, Freddie Lee Pitts and Wilbert Lee, who were twice tried and sentenced to death. They spent 12 years waiting on death row for crimes committed by someone else.

The *New York Times* reported recently (February 6, 1999) that Anthony Porter, who has spent 16 years on death row, was being released because of new evidence and a confession that cleared Mr. Porter of the crime. The new investigation was carried out as a class project by five journalism students from Northwestern University and their professor. The *Times* points out that this is not an isolated case: "But the truth is they have seen things like this before. If Mr. Porter (an African-American man with an IQ of 51) is exonerated, it will be the 10th time since Illinois reinstated the death penalty in 1977 that a death row inmate in Illinois has been freed because he turned out to be innocent." The question remains how many innocent people have been executed in Illinois and the other 37 states that still maintain the practice of capital punishment?

Catholic Principles

Over the last 20 years the American Bishops have grappled with the problem of capital punishment. In 1980, the U.S. Bishops, in a statement on capital punishment, reviewed the four usual arguments justifying the death penalty: retribution, deterrence, reform and protection. The last argument: protection is the one that Catholic thought has seen as the justifying reason for capital punishment. We find the emblematic statement of Thomas Aquinas in the "Summa Theologica": "If a man is a danger to the community, threatening it with disintegration by some wrongdoing of his, then his execution for the healing and preservation of the common good is to be commended." Because our modern Western societies have the resources and means to separate criminals and isolate them from society without having recourse to the extreme of capital punishment, the Church opposes capital punishment. Capital punishment can be moral only when it is necessary for public safety. It is no longer necessary and therefore must be abolished.

It is understandable that when a terrible crime is committed there is a reaction from the public charged with emotion. We all instinctively identify with the grief of the victims' families. Everyone knows that no one is exempt from the possibility of a violent attack on one's own person or on a loved one. The senseless violence and brutal violation of innocent victims instinctively repulses us. There is an outcry demanding redress. Our laws, however, need to be debated in an atmosphere of serenity and with a commitment to promote public morality. Decisions made at a time of great grief or anger are seldom rational and lead to disastrous consequences. It is ill-advised for public figures to try to engage the legislators in votes on capital punishment as a cathartic response to a recent tragedy. Violence should not be our response to violence.

Justice is not revenge. Killing murderers does not deter murders, but, rather, promotes an attitude that life is cheap and that when we have the power it is all right to kill. Much has been said about violence on television, in the movies, and in the lyrics of modern music. Our people are being desensitized, not unlike the ancient Romans finding entertainment in watching gladiators kill one another or applauding as Christians were thrown to wild beasts. State-sponsored violence will not promote a new respect for life but only serve to erode reverence for life even more.

Recent Papal Teachings

The Holy Father has spoken out against capital punishment three times in the last month: in his Christmas message, "Urbi et Orbi," again during his public statements during his visit to Mexico, and most recently during his pastoral visit to St. Louis. Although the first edition of the "Catechism of the Catholic Church" allows for the death penalty only in highly restricted circumstances, in his Encyclical "Evangelium Vitae" Pope John Paul II went even further, stating that such extreme cases were very rare indeed, if they existed at all. The Pope puts the responsibility of proof on the government to demonstrate that there is no viable alternative to the death penalty. That affirmation forced a clarification in subsequent editions of the "Catechism." Now the Pope is calling for an abolition of the death penalty. As he said in St. Louis: "The death penalty is cruel and unnecessary." In response to the Holy Father's request, the Governor of Missouri graciously commuted the sentence of a man on death row. The reality, however, is that the death sentence is on the increase. Since 1976, there have been approximately 500 executions, with 68 carried out in 1998 alone.

Looking to Scripture

The Church's participation in the debate on capital punishment, as on any public policy, seeks to convince our fellow citizens that this position in favor of life is based on reason and on a natural law that binds all human beings. We appeal to human rights and dignity and call people to embrace policies that will promote our humanity and the common good. We present our convictions with cogent arguments that should appeal to all people of good will in a pluralistic society.

However, in our own teaching to those of the household of the faith, to our Catholic people and other Christians, we turn to the New Testament. There we find the example and words of Jesus as the primary source of Christian life-ethics. Nowhere does Jesus offer violence as a solution to set things straight. The Gospel reveals God's boundless love for every person, regardless of human merit or worthiness. He does not will the death of a sinner, but rather that the sinner be converted. Jesus often shifts the locus of judgement to a higher court, a court where there is no need for polygraph, where there is absolute knowledge of the evidence, of good deeds and of evil, of things private and things public; a court where there is justice and mercy, both law and grace, wrath and tenderness.

In the book of Genesis, the first murderer was Cain. He was punished but not executed. God protected Cain from those who would threaten to kill him. The Old Testament injunction, "an eye for an eye, a tooth for a tooth," was an attempt to curb the spirit of vindication among God's people who would have sought to punish the guilty sevenfold by plucking out both eyes and knocking out several teeth. Just as the law of Moses in Deuteronomy 24 should be seen as a concession and not an approval of divorce, a concession that Jesus later abrogates, so too the law of talion does not command but limits revenge.

The provision of cities of sanctuary in the Old Testament was still another way of limiting peoples thirst for revenge.

In the Gospels, Christ's mercy is in sharp contrast with the attitude of those invoking capital punishment for the woman caught in adultery. Our Lord commutes her sentence by challenging the worthiness of her accusers to judge. Then He forgives her sin and admonishes her to sin no more. The Lord hates sin but loves the sinner. Discipleship calls us to have the same sentiments as the Master. The Sermon on the Mount and the teaching of the New Testament are clear in forbidding revenge and in demanding an attitude of mercy when dealing with a sinner. The Pharisees were quick to condemn Jesus because "He ate with sinners." He replied to their criticism by saying that it is the sick who need the physician. Our task as Christians is to bind up the wounds of sin. The sin causes greater harm to the perpetrator than to the victim of a crime. "Fear not the one who can kill the body, but rather the one who can cause you to be cast into eternal hellfire." Jesus on the Cross is an innocent victim of an intimidated judge. Despite Jesus' own pain, He holds out mercy and hope to the guilty as He speaks to the Good Thief: "Today you shall be with me in Paradise."

By trading places with the guilty and with his enemies, by dying in the murderer Barabbas' stead, Jesus teaches us that even people who do us evil have a claim on our love. Jesus' whole mission teaches us about His love for sinners. St. Paul, in Romans, reminds us: "Indeed only with difficulty does one die for a just person, though perhaps for a good person one might even find courage to die. But God proves His love for us in that while we were still sinners Christ died for us."

All of this is not to say that we do not need to find appropriate punishments for crime and ensure the safety of our people, but we must strive to free ourselves from hatred and a desire for vengeance in our dealing with criminals. A very striking Christian witness was given by Coretta Scott King, widow of Dr. Martin Luther King, when she stated, "As one whose husband and mother-in-law have died victims of murder assassination, I stand firmly and unequivocally opposed to the death penalty for those convicted of capital offenses. An evil deed is not redeemed by an evil deed of retaliation. Justice is never advanced in the taking of a human life. Morality is never upheld by a legalized murder."

Present Debate

Unfortunately, in the public debate, capital punishment is often seen as a symbolic issue: Do you or do you not support your local police? Do you or do you not care enough about crime to get tough on criminals? However, the reality is that capital punishment does not deal with crime in any useful way, rather it deludes the public into a false

sense of security about a complex social problem. The death penalty is really a way of avoiding the problem of crime instead of dealing with it. In studies referred to earlier, almost 87 percent of the criminologists and 57 percent of police chiefs find it quite accurate to say: "Debates about the death penalty distract Congress and state legislatures from focusing on real solutions to crime problems." A consideration of the monetary costs of an execution illustrates this point. A former Texas attorney general, Jim Mattox, is quoted in the *Dallas Morning News* as saying that presently, it costs about \$2 million to execute a prisoner. This is three times what it costs to incarcerate a person for 40 years. Two million dollars, the cost of one execution, translates into the salaries for approximately 48 additional police officers. Rather than investing millions of dollars in a dubious deterrent and dehumanizing vengeance, the state would do better to invest its limited resources in programs for crime prevention, drug rehabilitation, and maintaining a well-equipped police force.

The United States is one of the last democracies of the West to maintain the death penalty. The Council of Europe reported in 1962 that: "The facts clearly show that the death penalty is regarded in Europe as something of an anachronism..." Capital punishment has been abolished in 28 countries of Europe. In fact, this week a Paris newspaper, *Le Monde*, reported that the French courts were allowing extradition of Ira Einhorn to the United States only on the condition that the state of Pennsylvania not invoke the death penalty in case of conviction. In 1976 Canada ended the death penalty, and in recent years the United Nations has issued resolutions stating the desirability of abolishing capital punishment. Quite conspicuous by their indifference to these recommendations are nations generally known for their disregard for human rights of their citizens, such as China, Iraq and Iran. For instance, recent reports indicate that in China prisoners are executed as needed and their organs are harvested and then sold.

Within the United States, one-third of the states have already abolished capital punishment. The opposition to the death penalty is widespread and diverse. Catholic, Protestant and Jewish groups, as well as many national organizations, have expressed their opposition based on religious, moral and civic reasons.

As we prepare to end the most violent century in the history of the world and as we cross the threshold of hope into a new millennium, we must join our voices with that of our Holy Father in calling for an abolition of the death penalty. We want our country to be characterized by justice, not revenge; by safety, not violence; by life, not death.