

1-1-2000

## Equality of the Damned: The Execution of Women on the Cusp of the 21st Century

Elizabeth Rapaport

*University of New Mexico - School of Law*

Follow this and additional works at: [https://digitalrepository.unm.edu/law\\_facultyscholarship](https://digitalrepository.unm.edu/law_facultyscholarship)



Part of the [Law and Gender Commons](#)

---

### Recommended Citation

Elizabeth Rapaport, *Equality of the Damned: The Execution of Women on the Cusp of the 21st Century*, 26 Ohio Northern University Law Review 581 (2000).

Available at: [https://digitalrepository.unm.edu/law\\_facultyscholarship/178](https://digitalrepository.unm.edu/law_facultyscholarship/178)

This Article is brought to you for free and open access by the UNM School of Law at UNM Digital Repository. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of UNM Digital Repository. For more information, please contact [amywinter@unm.edu](mailto:amywinter@unm.edu), [lsloane@salud.unm.edu](mailto:lsloane@salud.unm.edu), [sarahrk@unm.edu](mailto:sarahrk@unm.edu).



SCHOOL  
OF LAW

SMALL SCHOOL.  
BIG VALUE.

## Equality of the Damned: The Execution of Women on the Cusp of the 21st Century

ELIZABETH RAPAPORT\*

### I. WOMEN ARE RARELY EXECUTED: WHAT DO THE NUMBERS MEAN?

In the period beginning with the reaffirmation of capital punishment in the United States in 1976,<sup>1</sup> until the present day,<sup>2</sup> more than 600 men but only four women have been executed.<sup>3</sup> The execution of Karla Faye Tucker in 1998, the second of the four women to be executed, occurred in the midst of relentless publicity.<sup>4</sup> The Tucker execution revived interest in gender equity in the administration of capital punishment. Although one woman, Velma Barfield, had been executed fourteen years earlier in a comparable media storm, the Tucker execution took place after weeks of speculation as to whether Governor Bush of Texas, and indeed any contemporary American governor, would allow a woman to be executed.<sup>5</sup> Would George W. Bush, who styles himself a "compassionate conservative,"<sup>6</sup> allow a pretty white woman of childbearing age to be executed? Governor Bush, at the time that this decision was thrust upon him, was readying himself to run for re-election as governor of Texas in less than a year and was also a prominent contender for the Republican presidential nomination in the 2000 election.<sup>7</sup> Governor

---

\* © 2000 Elizabeth Rapaport

Visiting Professor of Law, Duke University, and Professor of Law, University of New Mexico. Chris Trump provided excellent research assistance in the preparation of this article, for which I thank him.

1. See *Gregg v. Georgia*, 428 U.S. 153 (1976). The Supreme Court's action brought to a close a decade long moratorium on executions during which the future of capital punishment had been in doubt. See *id.* A 1972 decision, *Furman v. Georgia*, held that all extant capital punishment statutes violated the Eighth and Fourteenth Amendments, but in 1976, the Court embarked upon its course of elaborating standards for applying capital punishment and testing the constitutionality of successfully designed statutes. See *Furman v. Georgia*, 408 U.S. 238, 240 (1972); *Gregg*, 428 U.S. at 206-07.

2. This article was prepared for presentation at the Symposium on the Ultimate Penalty: A Multifarious Look at Capital Punishment, Ohio Northern University Law School on March 24, 2000. Subsequently, on May 3, 2000, a fifth woman, Christina Marie Riggs was executed in Arkansas. See Yellin, *infra* note 168, at A22.

3. By year's end 1999, there had been 598 executions. See TRACY L. SNELL, U.S. DEP'T OF JUSTICE, CAPITAL PUNISHMENT 1998, at 12 (1999) [hereinafter CAPITAL PUNISHMENT 1998] (noting the number of executions from 1977 to 1999).

4. See Victor L. Streib, *Death Penalty for Female Offenders January 1973, to June 1999* (last modified June 1999) <[www.law.onu.edu/faculty/streib/femdeath.html](http://www.law.onu.edu/faculty/streib/femdeath.html)>.

5. See generally GEORGE W. BUSH, A CHARGE TO KEEP 140-55 (1999) (detailing the events leading up to the execution).

6. *Id.* at 235.

7. See *id.* at 186, 222-23.

Bush's decision should have surprised no one. The Tucker execution was nonetheless a signal event in the recent history of capital punishment; it should prepare us for the normalization of the execution of women. The execution of Karla Faye Tucker also "put a face on the death penalty,"<sup>8</sup> and in doing so, may contribute to the return of abolitionism to mainstream politics.

A. *What We Think We Know, What We Know, and What We Don't Know About Capital Punishment and Gender Equality*

Few murderers are ever in jeopardy of a capital sentence. In 1996, for example, 2.5% of persons convicted of murder or manslaughter received capital sentences.<sup>9</sup> Among this capital elite, women are rare, comprising between 1% and 2 % of death row, typically, since the death penalty was reinstated.<sup>10</sup> To many, the meaning of such statistics is manifest: since women commit approximately one in eight homicides in the United States,<sup>11</sup> the death row numbers prove that women are protected by cultural or even more fundamental inhibitions from paying the ultimate price for taking life. For opponents of capital punishment gender bias is one more powerful reason, if one more were needed, to condemn the injustice of capital punishment.<sup>12</sup>

The statistics just reviewed tell a misleading story.<sup>13</sup> Although women commit one in eight homicides, they commit a very much smaller percentage of offenses that are eligible for capital treatment.<sup>14</sup> Demonstrably, the single most important explanatory factor accounting for the representation of women on death row is the low rate of the commission of death penalty echelon offenses by women.<sup>15</sup> The death penalty is reserved for offenses and offenders our society regards as the most reprehensible.<sup>16</sup> Two-thirds of

---

8. *Id.* at 141.

9. In 1996, 11,766 persons were convicted of murder or manslaughter in state and federal court. See JODI M. BROWN & PATRICK A. LANGAN, U.S. DEP'T OF JUSTICE, FELONY SENTENCES IN THE UNITED STATES, 1996, at 2 tbl.2 (1999). There were 299 admissions to death row in the same year. See TRACY L. SNELL, U.S. DEP'T OF JUSTICE, CAPITAL PUNISHMENT 1996, at 1 (1997).

10. See Streib, *supra* note 4.

11. See *id.*

12. Justice Marshall, concurring in *Furman v. Georgia*, wrote, "[t]here is . . . overwhelming evidence that the death penalty is employed against men and not women. . . . It is difficult to understand why women have received such favored treatment since the purposes allegedly served by capital punishment seemingly are equally applicable to both sexes." 408 U.S. 238, 365 (1972) (Marshall, J., concurring).

13. See Elizabeth Rapaport, *The Death Penalty and Gender Discrimination*, 25 L. & SOC'Y REV. 367, 369-74 (1991) (detailing the statistical evidence surrounding women and the death penalty).

14. See *id.* at 370.

15. See *id.*

16. See *id.* at 369 (explaining that typically this entails predatory crimes).

women who kill, kill family members and lovers.<sup>17</sup> These crimes almost never result in death sentences, regardless of the sex of the killer, unless they are done for predatory motives or result in multiple deaths.<sup>18</sup> More than 75% of those on death row killed in the course of committing a violent felony such as rape or robbery.<sup>19</sup> These offenses, in which women's rates of participation are very low, are most severely condemned by our society.<sup>20</sup> Women commit 4%, or slightly less, of killings by strangers, of robbery-murders, and of rape-murders.<sup>21</sup> They commit 7.2% of killings with multiple victims.<sup>22</sup> In addition to the nature of the homicides they commit, women are protected from capital punishment by the criminal histories they present to prosecutors selecting those who will stand trial for their lives.<sup>23</sup> Women killers are far less likely than men to have histories of violence.<sup>24</sup> It is the extremely low rate of participation in death penalty echelon crimes that most powerfully explains the low percentage of women on death row.<sup>25</sup>

We have far less information about the impact of gender upon the fates of men and women *after* they are admitted to death row. A full account of the post-admission role of gender would include understanding how gender figures into selection for execution, in particular, for judicial relief from capital sentence and for executive clemency. Addressing these questions is made difficult by several circumstances. Although there is accurate and complete information about admissions, the majority of those sentenced to death since 1977 remain on death row today.<sup>26</sup> We cannot know what their fate will be or how long it will take for final resolution. Persons executed 1977-98, had been on death row for more than nine years, on average, prior to execution.<sup>27</sup> Until their deaths, no one could know whether they would be among the now 8.2% of the capitally sentenced 1977-98, thus far, who have actually been executed.<sup>28</sup>

---

17. *See id.* at 371 tbl.2.

18. *See* Elizabeth Rapaport, *Capital Murder and the Domestic Discount: A Study of Capital Domestic Murder in the Post-Furman Era*, 49 SMU L. REV. 1507, 1508 (1996).

19. *See id.* at 1510 & n.9.

20. *See* Rapaport, *supra* note 13, at 370, 371 tbl.1.

21. *See id.* at 371 tbl.1.

22. *See id.*

23. *See id.* at 374.

24. *See id.*

25. *See id.*

26. *See* CAPITAL PUNISHMENT 1998, *supra* note 3, at 12 & tbl.12 (noting that the average time on death row "between the imposition of the most recent sentence received and execution was more than 9 years").

27. *See id.* at 12.

28. *See id.* at 1.

Approximately one third of all death sentences imposed 1973-98, had been reversed by court action by the end of 1998.<sup>29</sup> However, fewer capitally sentenced women remain on death row than do men. Of the 128 women capitally sentenced since 1973, four, or 3.7%, have been executed, and seventy-six, or 59%, have left death row due to judicial reversal of sentence or executive commutation of sentence.<sup>30</sup>

Judicial reversals occur for a great variety of reasons. No one has as yet done the research that could explain why more women have left death row alive than have men. There are other discrepancies, although of much smaller magnitude, between admissions and outcomes. Hispanics are appreciably less likely to leave death row for general population than are whites or blacks: 25% of Hispanics, 36.9% of whites, and 34.7% of blacks received some kind of sentencing relief 1977-98.<sup>31</sup> Whites are over-represented among the executed, and blacks are under-represented among the executed relative to their numbers on death row. While whites comprised 50% of death row, 1977-98, they accounted for 56% of executions; blacks comprised 41% of death row but suffered only 36% of executions.<sup>32</sup>

There are several possible explanations of women's greater statistical likelihood of avoiding death after a capital sentence. One explanation is inhibition against the execution of women on the bench, among governors and clemency boards, and among other persons in the criminal justice system who individually and collectively influence the pace at which cases proceed, as well as their outcomes. It is also possible that gender is correlated with other factors that account for some or all outcomes. For example, *some* women's capital cases (by no means all) have involved gender-patterned mitigation factors insufficiently examined at trial. The contemporary death penalty was launched just as the law of homicide began its as yet incomplete effort to come to grips with domestic oppression as a factor affecting or mitigating culpability. Another subject for future research is the extent to which women's cases present fewer aggravating factors and milder histories of violent crime, and the impact this correlation, if it is borne out, may have on sentencing relief after the imposition of a death penalty.

I would like to offer two possible explanations, other than the decision-maker's inhibition against executing a woman, that may account for some of the longevity of the, as yet, small number of women sentenced to die in the

---

29. See *id.* at 15. Of the 6,431 persons capitally sentenced between 1973-98, 2,124 left death row because of judicial action. See *id.*

30. See Streib, *supra* note 4, from whose compilation of death row population these percentages are derived.

31. See CAPITAL PUNISHMENT 1998, *supra* note 3, at 11 tbl.11.

32. See *id.* at 9.

contemporary death penalty era. The first is the sheer unusualness of being a woman on death row. To be unusual makes for closer attention, perhaps greater care in reviewing a case, whether judicially or in an executive clemency determination. Both the intrinsic interest of the unusual and the expectation that others are paying more attention—the public, the press, opponents, other jurists—would lead to closer scrutiny of a woman's case. At the end of 1998, there were forty-eight women on death row, conspicuous for their gender among a total of 3,452 prisoners on death row.<sup>33</sup> Even the states having the largest number of women under capital sentence since *Furman* have had only a handful of women on their death rows at a time.<sup>34</sup> California, with the largest death row in the country, 512,<sup>35</sup> presently also has the largest number of women on death row, ten.<sup>36</sup> California is followed by Texas, which has the second largest death row, 451,<sup>37</sup> housing eight women.<sup>38</sup> Only two other states currently have as many as four female death row inmates,<sup>39</sup> while almost one third of the death penalty states have no female death row inmates.<sup>40</sup> It is not unreasonable to conjecture that, in an area of law where cases are complex to try and error vitiating trial and sentencing results have been found by reviewing courts in approximately a third of all cases, cases closely sifted will more likely be found to contain reversible error or circumstances warranting clemency.

A second possible explanation of the removal of more women from death row than men—especially by executive clemency but also by action of elected judges and even life tenure judges—is the impact on a governor or judge of *his belief* that the public would regard the execution of a woman as inhumane. George W. Bush, who has overseen more than 120 executions during his tenure as governor of Texas,<sup>41</sup> reports the concern felt in his administration that the execution of a woman would make him and the State of Texas appear inhumane and “bloodthirsty.”<sup>42</sup> If this kind of diffidence is a factor, the phenomenon at hand is not inhibition against executing a woman, but rather politically motivated caution or concern about losing popularity or support.

---

33. *See id.* at 1, 7.

34. *See id.* at 8.

35. *See id.* at 6 tbl.5.

36. *See id.* at 8.

37. *See id.* at 6 tbl.5.

38. *See id.* at 8.

39. *See id.*

40. *See id.* at 7 tbl.6.

41. During the first 5 ½ years of his governorship, there were 120 executions in Texas. *See* Frank Bruni, *Woman, 62, Put to Death in Texas*, N.Y. TIMES, Feb. 25, 2000, at A12.

42. BUSH, *supra* note 5, at 146.

The dilemma of the gender egalitarian governor fearing political reprisal from a less enlightened electorate will be discussed below.

Related phenomena may explain the apparent relative reluctance to carry out death sentences upon blacks. A persistent theme in criticism of capital punishment in the United States has been racial injustice.<sup>43</sup> Race is therefore highly salient, the looming reproach. It would not be surprising if judges, whose personal integrity is at issue, as well as that of the system they serve, are sometimes particularly at pains to avoid criticism in cases involving black defendants. The 1999 crop of executions, ninety-eight in all, included sixty-one whites and thirty-three blacks,<sup>44</sup> which exacerbates the skew in executions relative to death row population by race. It will be interesting to see whether the future preserves this trend, whether blacks at long last are accruing a small advantage within the capital punishment system.

Executive clemency in capital cases is exceedingly rare in the contemporary death-penalty era. Apart from a few dozen cases of clemency granted for reasons of expediency—to conserve time and judicial resources<sup>45</sup>—there have been as few as forty-two cases of executive clemency 1977-99.<sup>46</sup> Seven of these grants were to women, and of the seven, four were among the eight clemencies granted by Governor Richard Celeste of Ohio in 1991.<sup>47</sup> In assessing the granting of executive clemency to women, bear in mind that virtually all grants of executive clemency, except perhaps those awarded because of doubts about guilt, are inherently controversial. While it is clear that a governor has broad discretion to grant clemency, there is little agreement about the scope and justification of its proper use.<sup>48</sup> The very rarity of clemency makes it hard to justify any grant because it can always be said that the recipient was no more deserving than other death row inmates. Therefore, to assert about any grant of clemency to a woman that she was singled out for her sex is certainly possible. Nonetheless, at least five of the clemencies granted to women are straightforwardly within the most conservative or accepted categories. Two women were among the fourteen

---

43. For detailed accounts of such discrimination, see DAVID C. BALDUS ET AL., *EQUAL JUSTICE AND THE DEATH PENALTY* (1990) and SAMUEL R. GROSS & ROBERT MAURO, *DEATH AND DISCRIMINATION* (1989).

44. See CAPITAL PUNISHMENT 1998, *supra* note 3, at 12.

45. See Michael L. Radelet & Barbara A. Zsembik, *Executive Clemency in Post-Furman Capital Cases*, 27 U. RICH. L. REV. 289, 292-96 (1993).

46. See Death Penalty Information Center, *Facts About Clemency* (visited June 20, 2000) <[www.essential.org/dpic/clemency.html](http://www.essential.org/dpic/clemency.html)> [hereinafter DPIC], which compiles information about capital clemency, employing the framework developed by Radelet & Zsembik. See Radelet & Zsembik, *supra* note 45, at 289-314.

47. See DPIC, *supra* note 46.

48. See Elizabeth Rapaport, *Retribution and Redemption in the Operation of Executive Clemency*, 74 CHI.-KENT L. REV. 1501 (2000).

granted because of doubts about guilt, i.e., whether the prisoner committed the crime at all or whether an accomplice had shifted blame to the condemned.<sup>49</sup> Two more women were among nine prisoners granted clemency because of low intelligence or mental illness.<sup>50</sup> Four men and one woman had their sentences commuted on grounds of equity because an equally or more culpable co-defendant escaped a death sentence.<sup>51</sup>

The two women capital prisoners most recently granted clemency are Guin Garcia of Illinois, whose sentence was commuted by Governor Jim Edgar in 1996,<sup>52</sup> and Judith Ann Neelley of Alabama, whose sentence was commuted in 1999, by Governor Fob James.<sup>53</sup> Guin Garcia shot her estranged husband during a quarrel over money; she was capitally tried because she had previously been convicted of the murder of her infant child.<sup>54</sup> She had a terrible history of abuse in childhood and at the hands of the husband she murdered.<sup>55</sup> She was also an alcoholic.<sup>56</sup> Governor Edgar commuted her sentence to life without possibility of parole because it was not a "typical" capital crime; he made no mention of the abuse and alcohol in his terse statement announcing his decision.<sup>57</sup> Judith Ann Neelley's death sentence was commuted to life at the end of Governor James term at the urging of religious leaders who relied upon her prison conversion.<sup>58</sup> Governor James is a deeply religious man. Neelley was capitally sentenced for the torture-murder of a young girl.<sup>59</sup> She had participated in the crime while under the domination of a horribly abusive husband. Governor James gave no explanation whatever of his decision to commute Neelley's sentence, leaving the press to speculate

---

49. These were Doris Ann Foster, whose death sentence was commuted by Governor Harry Hughes of Maryland in 1987, on his last day in office, and Rosalie Grant, whose death sentence was commuted by Governor Celeste of Ohio in 1991. See DPIC, *supra* note 46. See also Gwin Ifill, *Md. Woman's Death Term Commuted; Hughes Takes Action On His Final Day*, WASH. POST, Jan. 21, 1987, at B7.

50. Debra Brown and Elizabeth Green were among the clemencies granted by Governor Celeste of Ohio in 1991. See DPIC, *supra* note 46.

51. Beatrice Lampkin was the woman granted clemency on equity grounds. See *id.*

52. See *Edgar Commutes Sentence; Guinevere Garcia, Killer of Abusive Husband, To Serve Life Without Parole*, CHI. TRIB., Jan. 16, 1999, at 1 [hereinafter *Edgar Commutes Sentence*].

53. See Jay Reeves, *Alabama Commutes Death Sentence*, ASSOCIATED PRESS, Jan. 15, 1999, available in 1999 WL 2232135; *Outgoing Gov. James of Alabama Commutes Woman's Death Sentence*, L.A. TIMES, Jan. 17, 1999, at A12; *Killer's Death Sentence is Commuted*, DES MOINES REG., Jan. 16, 1999, at 7.

54. See *Edgar Commutes Sentence*, *supra* note 52, at 1.

55. See *id.*

56. See *id.*

57. *Id.*

58. See *Killer's Death Sentence is Commuted*, *supra* note 53, at 7.

59. See *id.*



about the roles of the religious conversion and the abuse in convincing him to grant clemency.<sup>60</sup>

It is entirely plausible that neither of these women would have received clemency but for their gender and histories of abuse. Indeed, horrific spousal abuse may also have helped dispose Governor Celeste to grant clemency in two of the Ohio cases.<sup>61</sup> The recognition of domestic violence as a social problem with profound and systematic significance for criminal law is one of the most striking reforms of late twentieth century. It is neither surprising nor regrettable that the institution of clemency, whose historic tasks have included midwifery to law reform, should be a site at which the human costs of domestic violence have been acknowledged.

#### *B. The Execution of Women in the United States Before the Era of Formal Gender Equality*

Throughout American history, from early colonial times until the pre-*Furman* moratorium period during which no executions took place, women have been executed; females account for approximately 3% of all executions, or 556 women, from 1632 until the execution of Elizabeth Duncan in California in 1962.<sup>62</sup> In the period from 1930, when the federal government began collecting information about capital punishment until, 1962, the Bureau of Justice Statistics tallies thirty-two executions, or one a year.<sup>63</sup> We have always executed women. Yet, before *Furman*, it was normal, as a matter of both law and culture, to treat gender as relevant to the assessment of guilt and punishment. Thus, it was unremarkable for Governor West of Oregon to explain his grant of clemency to a female death row prisoner in 1908 in the following terms: "When I saw that woman in the penitentiary (the only one there), it made me sick, and so I turned her loose."<sup>64</sup>

A more remarkable example of chivalry was the 1941 petition from thirty San Quentin inmates to the Governor of California opposing the execution of Eithel Spinelli; her execution, they claimed, would be dishonorable, a blot on the reputation of the state and "repulsive to the people of California" because

---

60. *See id.*

61. *See State v. Lampkin*, No. C-890273, 1990 WL 143466, at \*3-5 (Hamilton Co. Ct. App. Oct. 3, 1990). *Cf. Elizabeth Rapaport, Some Questions About Gender and the Death Penalty*, 20 GOLDEN GATE U. L. REV. 501, 549-51 (1990) (discussing domestic violence in the Debra Brown and Judith Ann Neelley cases). *See generally State v. Brown*, 528 N.E.2d 523 (Ohio 1988).

62. *See Streib, supra note 4; see generally Rapaport, supra note 61*, at 516-28 (describing the execution of women between 1930 and 1967). Duncan was the last woman executed prior to the moratorium.

63. *See U.S. DEP'T OF JUSTICE, BUREAU OF JUSTICE STATISTICS, CAPITAL PUNISHMENT*, 1986, at 9 tbl.2 (1987) [hereinafter *CAPITAL PUNISHMENT* 1986].

64. James D. Barnett, *The Grounds of Pardon*, 17 J. CRIM. L. & CRIMINOLOGY 490, 514 (1927).

of her sex and her status as a mother.<sup>65</sup> The signers offered to draw straws to go to the gas chamber in her stead if clemency was refused.<sup>66</sup> Whether the law was more kind or unkind to women, on balance, under this dispensation, is a matter of controversy that will not concern me here. Beginning in the late 1960's, it became a violation of equal protection to favor or disfavor either sex in sentencing schemes or their application.<sup>67</sup> When the moratorium period ended and the capital prisoners of the new era began to suffer execution in the late 1970's and early 1980's, all those charged with doing justice in capital cases were obliged to proceed on the basis of the equal susceptibility of men and women to the forfeit of life for murders of extraordinary heinousness.

## II. THE EXECUTION OF WOMEN IN THE POST-FURMAN ERA

Four women have been executed since the resumption of executions after the moratorium; the first man was executed in 1977,<sup>68</sup> the first woman, Velma Barfield, in 1984.<sup>69</sup> She was the second person to be executed in North Carolina after the moratorium,<sup>70</sup> and the twenty-ninth person to be executed in the country.<sup>71</sup> The year of her execution witnessed a substantial rise in the number of people executed annually, twenty-one;<sup>72</sup> there had been a total of eleven executions 1977-83.<sup>73</sup> Thus, one woman was executed early in the history of the modern death penalty era. Her execution, in retrospect, revealed the future of executing women in the era of formal equality. However, both the post-moratorium institution of capital punishment and gender equality were so new in 1984, that it would take another fourteen years and the execution of Karla Faye Tucker<sup>74</sup> before the lessons could be assimilated. In 1984, a Southern governor from an execution state was forced to try to determine the social and political meaning of executing a woman in the first years of the formal egalitarian era. In 1998, another Southern governor from the nation's leading execution state, Texas, had the same political riddle thrust

---

65. CLINTON T. DUFFY, 88 MEN AND 2 WOMEN, 135-36 (1962).

66. *See id.* at 136. The governor did not commute, nor were the gallant convicts taken up on their offer to draw straws: Eithel Spinelli was executed. *See id.* at 136-41. *See also* Rapaport, *supra* note 61, 503-04.

67. *See* Marianne Popiel, Note, *Sentencing Women: Equal Protection in the Context of Discretionary Decisionmaking*, 6 WOMEN'S RTS. L. REP. 85, 85 (1980); Rapaport, *supra* note 61, at 505-06.

68. *See* NAACP LEGAL DEFENSE AND EDUCATION FUND, DEATH ROW U.S.A., at 9 (Winter 2000).

69. *See id.* at 12.

70. *See id.* at 11.

71. *See id.* at 12.

72. *See id.* at 9.

73. *See id.*

74. *See id.* at 20.

upon him. Before turning to the politics of executing women, let us review the four executions in the post-*Furman* era.

The four executions have all occurred in active execution states, Texas and Florida being respectively the leading and the third-ranked death penalty states.<sup>75</sup> More than two-thirds of all executions that have occurred since the resumption of executions in 1977 have occurred in six states.<sup>76</sup> Texas, the site of two of these executions, accounts for a full third of all executions.<sup>77</sup> The execution of Betty Lou Beets was the 121st of George W. Bush's governorship.<sup>78</sup> Texas, Florida, and North Carolina, have consistently ranked among the leading states in numbers of female death row inmates.<sup>79</sup>

#### A. *The Four Executed Women*

Velma Barfield was sentenced to die for the arsenic poisoning of her fiancé.<sup>80</sup> She admitted to poisoning three other people, her mother and an elderly couple who employed Barfield to care for them.<sup>81</sup> She was, additionally, a suspect in the poisoning death of her husband.<sup>82</sup> She claimed she killed in an uncomprehending haze induced by drug addiction,<sup>83</sup> and that she actually killed to cover up thefts carried out to buy prescription tranquilizers.<sup>84</sup> At the time of her execution, she was drug-free, a born-again Christian, and loved by all who knew her, inmates and staff, at the Women's Prison in Raleigh.<sup>85</sup> The campaign for her clemency was led by Ruth Graham, the wife of evangelist Billy Graham.<sup>86</sup> She was fifty-two and a grandmother when she left this world by way of lethal injection.<sup>87</sup>

Karla Faye Tucker, a drug-addicted prostitute, committed two pickaxe murders in the company of a boyfriend.<sup>88</sup> No one has ever suggested that she

---

75. See CAPITAL PUNISHMENT 1998, *supra* note 3, at 1.

76. As of the end of 1998 these were: Texas (164), Virginia (59), Florida (43), Missouri (32), Louisiana (24), Georgia (23). See CAPITAL PUNISHMENT 1998, *supra* note 3, at 11.

77. See *id.*

78. See Bruni, *supra* note 41, at A12.

79. See Streib, *supra* note 4.

80. See *State v. Barfield*, 259 S.E.2d 510, 519-20, 544 (1979). See also Rapaport, *supra* note 61, at 503, 538-40.

81. See Rapaport, *supra* note 61, at 539.

82. See *Barfield*, 259 S.E.2d at 521-22.

83. See *id.* at 522.

84. See *id.*

85. See Rapaport, *supra* note 61, at 540. See generally William E. Schmidt, *Woman Executed in North Carolina*, N.Y. TIMES, Nov. 2, 1984, at A1.

86. See William E. Schmidt, *Decision on Execution Order A Key Issue in Carolina Race*, N.Y. TIMES, Sept. 27, 1984, at A1.

87. See Rapaport, *supra* note 61, at 539.

88. See BUSH, *supra* note 5, at 144; see generally *Tucker v. State*, 771 S.W.2d 523, 526-27 (Tex.

was anything but an equal and willing participant in the crimes.<sup>89</sup> She embraced the role of a bad girl in life and in her trial testimony.<sup>90</sup> The murders were almost pointless; the victims happened to be unexpectedly home and asleep when Tucker and her boyfriend arrived to steal some motorcycle parts.<sup>91</sup> There was a history of bad feeling between the killers and the male murder victim.<sup>92</sup> Tucker, who became the sweetheart of death row, and who, while in prison, contracted a white marriage with the prison chaplain,<sup>93</sup> bragged at the time of the killing that she was sexually gratified with every stroke of the pickaxe.<sup>94</sup> In prison, Tucker sobered up and became a devout evangelical Christian.<sup>95</sup> Fascinating and repellent at her trial, she became a media star in the weeks leading up to her execution.<sup>96</sup> Her wan, pixie-ish good looks, her youthfulness, her wry, self-deprecating humor, and her self-possession, articulateness and thoughtfulness, captivated television audiences.<sup>97</sup> She was thirty-eight years old at her death.<sup>98</sup>

Judias Buenoano, born in Panama, was capitally sentenced in 1985, for the poisoning death of her husband.<sup>99</sup> There was evidence that she had poisoned another man successfully and poisoned but failed to kill a third, in each case in order to collect life insurance.<sup>100</sup> She had previously been convicted of drowning her paralyzed son by pushing him out of a canoe.<sup>101</sup> Buenoano underwent no religious or other transformation in prison, never showed remorse, and was supported at the end by no following of her own, other than those who oppose capital punishment generally.<sup>102</sup> She was well liked, accomodating, and now missed among those who knew her while in

---

Crim. App. 1988), *cert. denied*, 109 S. Ct. 3230 (1989).

89. *See Tucker*, 771 S.W.2d at 528.

90. *See Rapaport*, *supra* note 61, at 553.

91. *See Tucker*, 771 S.W.2d at 526.

92. *See id.*

93. Larry King conducted a prison interview with Tucker that was broadcast on his show. *See Larry King Live* (CNN television broadcast, Jan. 14, 1998).

94. *See Tucker*, 771 S.W.2d at 526-27.

95. *See Larry King Live*, *supra* note 93.

96. *See Streib*, *supra* note 4.

97. *See, e.g., Larry King Live*, *supra* note 93.

98. *See Karla Faye's Original Memorial Home Page* (visited June 26, 2000) <<http://www.straightway.org/karla/karla.htm>>.

99. *See generally* *Buenoano v. State*, 527 So. 2d 194, 195-96, 199 (Fla. 1988).

100. *See id.* at 196.

101. *See* Sabrina L. Miller, *In the Shadow of Death*, HOUSTON CHRON., Nov. 7, 1999, at 11. *Cf.* Wendy Spirduso, *One Woman's Struggle With the Death Penalty*, ORLANDO SENTINEL, Apr. 19, 1998, at 6.

102. *See generally* Mireya Navarro, *Execution Without All the Attention*, N.Y. TIMES, Feb. 10, 1998, at A10.

prison.<sup>103</sup> She was mourned by her daughter, who had hoped for commutation.<sup>104</sup> Judi Buenoano was a fifty-four year old grandmother at her death.<sup>105</sup>

Betty Lou Beets was sentenced to die in 1985 for the shooting death of her fifth husband for pecuniary gain, life insurance policies and pension benefits.<sup>106</sup> The police found his body buried in her front yard. They also discovered the body of her fourth husband who had also been shot in the head.<sup>107</sup> Years earlier she had been convicted of shooting and wounding her second husband.<sup>108</sup> Long after her trial, she claimed that she had suffered years of domestic abuse. Her cause was taken up by opponents of domestic abuse.<sup>109</sup> Unlike her Texas death row sister, Karla Faye Tucker, who conducted much of her own campaign for clemency through media interviews, Beets went silent to her death.<sup>110</sup> She was sixty-two years old.<sup>111</sup>

### B. Gender and the Politics of Execution

#### 1. The Execution of Velma Barfield

In 1984, Governor Jim Hunt of North Carolina sought to replace incumbent U.S. Senator Jesse Helms in a close and bitterly contested election.<sup>112</sup> In August of that year a superior court judge, offering no explanation, scheduled the execution of Velma Barfield to occur just days before the election.<sup>113</sup> The execution could have been scheduled as late as November 22.<sup>114</sup> The judge's decision put Governor Hunt in an unenviable position.<sup>115</sup> He was a declared proponent of capital punishment in a state where the death penalty was believed to be favored by 70% of the

103. See Miller, *supra* note 101, at 11.

104. See Wendy Spirduso, *A Frightened Buenoano Dies in Florida's Electric Chair*, SUN SENTINEL (Ft. Lauderdale, Fla.), Mar. 31, 1998, at A1.

105. See *id.*; Wendy Spirduso, *Florida Executes Its First Woman in Century and a Half*, HOUSTON CHRON., Mar. 31, 1998, at 9.

106. See *Beets v. State*, 767 S.W.2d 711, 716 (Tex. Crim. App. 1987).

107. See *id.* at 717, 718-19.

108. See Bruni, *supra* note 41, at A12.

109. See Diane Jennings, *Beets Executed for Husband's Murder: Woman is Second to be Put to Death in Texas Since Civil War*, DALLAS MORNING NEWS, Feb. 25, 2000, at A1.

110. See *id.*

111. See *id.*

112. See William E. Schmidt, *Decision on Execution Order A Key Issue in Carolina Race*, N.Y. TIMES, Sept. 27, 1984, at A1.

113. See Schmidt, *supra* note 85, at A1; William E. Schmidt, *First Woman is Executed in U.S. Since 1962*, N.Y. TIMES, Nov. 3, 1984, at 46.

114. See Schmidt, *supra* note 113, at 46.

115. See generally Schmidt, *supra* note 112, at A1 (maintaining that a decision either way in regards to clemency will cause at least some "negative political fallout").

electorate.<sup>116</sup> But he was identified with the progressive wing of the state's Democratic Party.<sup>117</sup> His advisors feared that the execution of a woman the weekend before the election would keep core liberal supporters, thought to represent his potential margin of victory, at home.<sup>118</sup> Little as the Hunt camp wanted to alienate liberals, blocking the execution could be expected to anger pro-capital punishment voters.<sup>119</sup> Although the Barfield execution was never an explicit election issue, Hunt was struggling to fend off accusations by Helms that he was a weak and vacillating leader who did "flip-flops" on issues.<sup>120</sup> Complicating matters further, Barfield had won the support of some evangelicals who believed her faith and repentance were sincere.<sup>121</sup> Ruth Graham, wife of evangelist Billy Graham, was the spokeswoman for evangelicals pressing Governor Hunt to commute Barfield's sentence.<sup>122</sup>

Hunt chose the more prudent of two unpalatable choices in late September: "I cannot in good conscience justify making an exception to the law as enacted by our State Legislature, or overruling those twelve jurors who, after hearing the evidence, concluded that Mrs. Barfield should pay the maximum penalty for her brutal actions."<sup>123</sup> The risks of losing liberal opponents of the death penalty and alienating religious opposition to the death of a Christian woman had to be embraced. He could not make an exception for a woman in a glaringly visible death penalty case on the eve of the election. More than 77% of the letters the governor's office received from constituents urged Hunt to deny clemency.<sup>124</sup> Whatever chivalry and compassion stirred in the breasts of Jim Hunt and the voters of North Carolina for the fifty-two year old grandmother was quelled by the compelling logic of equal justice. Jim Hunt, a New South governor in the late twentieth century, could not grant clemency to Barfield because she was a woman unless he was willing to pay the political price.

---

116. See *Carolina Slayer Fails in Her Bid For a Reprieve*, N.Y. TIMES, Sept. 28, 1984, A1.

117. See Rapaport, *supra* note 61, at 540.

118. Cf. *Carolina Slayer Fails in Her Bid For a Reprieve*, *supra* note 116, at A1 (explaining that Governor Hunt is a Democrat, thus his campaign staff was concerned about the possible effects on the election due to a possible execution).

119. Cf. *id.* at A1 (revealing the potential backlash of death penalty supporters on the election if a reprieve is granted).

120. *Id.*

121. See Schmidt, *supra* note 86, at A1.

122. See *id.*

123. *Carolina Slayer Fails in Her Bid For a Reprieve*, *supra* note 116, at A1.

124. See *id.*

## 2. The Execution of Karla Faye Tucker

In the fall of 1997 Governor George W. Bush was alerted that an execution date would be scheduled for Karla Faye Tucker after the first of the year.<sup>125</sup> Tucker and Bush would become the protagonists in the highest profile death case that Texas and the United States had seen during his term as governor.<sup>126</sup> Bush as governor had allowed dozens of executions to go forward; he had never granted or by any account seriously considered granting clemency.<sup>127</sup> Unlike Governor Jim Hunt of North Carolina, his support for the death penalty could not be doubted.<sup>128</sup> Bush was on record, and indeed was eager to reassert, that there were two questions he examined in each death case; if the answers were affirmative, he felt bound to allow an execution to proceed:

early in my administration, I decided the standards by which I would decide whether to allow an execution to proceed. In every case, I would ask: Is there any doubt about this individual's guilt or innocence? And, have the courts had ample opportunity to review all the legal issues in this case?<sup>129</sup>

Tucker herself unreservedly acknowledged her guilt; she based her petition for clemency not on any alleged judicial errors or procedural defects in her case but on her commitment to Christianity, including opposition to capital punishment.<sup>130</sup> The decision to allow the execution was straightforward in light of Bush's standards, yet he describes the Tucker execution as one of the most difficult passages in his governorship.<sup>131</sup> The reasons are not far to seek and are rather candidly discussed in his campaign biography.<sup>132</sup> Bush quotes from "a front-page story by Texas-based reporter Sam Howe Verhovek [of the *New York Times*]" to convey "the discomfort:"

AS WOMAN'S EXECUTION NEARS, TEXAS SQUIRMS. Texas had put thirty-seven men to death the previous year, the article said, the most executions in a single year in any state in the modern era of

---

125. See BUSH, *supra* note 5, at 144.

126. See generally *id.* at 140-55 (depicting the events surrounding the execution).

127. Later in 1998, Governor Bush commuted the death sentence of Henry Lee Lucas on grounds of factual innocence. For an account of his decision, see *id.* at 155-66.

128. See *id.* at 140.

129. *Id.* at 141.

130. See *Larry King Live*, *supra* note 93.

131. Cf. BUSH, *supra* note 5, at 153-54, 155 (revealing that reading his statement to the press was "one of the hardest things . . . [he has] ever done," and the twenty minutes taken to carry out the execution "remain the longest . . . [in his] tenure as Governor").

132. See *id.* at 140-55.

capital punishment. "But even for a state with the nation's busiest execution chamber, the looming lethal injection of prisoner No. 777 at the Mountain View Unit here is a milestone," the article continued. "As the execution date nears, an unlikely array of sympathizers ranging from Christian conservatives to a juror in her trial are lobbying to save her life in a case that offers a stark political quandary for Mr. Bush and an equally stark picture of society's reluctance—even in a law-and-order state—to execute women."<sup>133</sup>

Bush was to seek re-election as Governor of Texas in 1998 and enter the race for President of the United States in the 2000 election.<sup>134</sup> His political standing as a governor was high, and his prospects in 2000 looked bright.<sup>135</sup> He was more than content to campaign on a record as the governor who far and away led the nation in the number of executions over which he had presided.<sup>136</sup> But the Tucker execution appeared to Bush to present the same hazards that the Barfield execution posed to Jim Hunt in 1984. He feared being punished politically, in Texas and later nationally, by public reaction to the execution of a woman—a young, attractive, white, Christian, woman.<sup>137</sup> Tucker's sincerity as a Christian was attested to by none other than Pat Robertson, televangelist and leader of the Christian Coalition, who asked Bush to grant clemency.<sup>138</sup> Governor Bush, who calls himself a "compassionate conservative"<sup>139</sup> and insists upon the depth of importance of Christianity in his own life,<sup>140</sup> had the added burden of maintaining the luster of these attributes while adhering to the law-and-order standards upon which he had staked his political career.

Events as they unfolded taught the same lesson that the Barfield execution had taught in 1984: let us assume that political expedience, not personal conviction, guided Governor Bush's actions from the time he learned of the impending execution date until the death of Karla Faye Tucker in February of 1998. Bush's problem, unvarnished, was that given the belief in public reluctance to execute a woman and a public riveted on a spectacle that had everything—sex, death, and the fate of princes—, he was presented with a choice between appearing to bow under pressure and appearing

---

133. *Id.* at 145.

134. *See id.* at 186, 240.

135. *See, e.g. id.* at 222-23.

136. *See generally id.* at 140-41.

137. *But see BUSH, supra* note 5, at 145.

138. *See id.* at 144.

139. *Id.* at 234-35.

140. *Cf. id.* at 147.



"bloodthirsty."<sup>141</sup> The pressures he describes may well have been more intense than any others in his tenure in office, and the twenty minutes between the insertion of the needle bearing lethal poison into Karla Faye Tucker and the pronouncement of her death may well have been "the longest twenty minutes" of his service in office.<sup>142</sup> But Bush has not been punished for executing "the sweetheart of death row." The reluctance of the public to see women executed was apparently exaggerated or misunderstood. The political backlash never materialized. Two more executions of women have gone forward since Tucker's death, that of Judi Buenoano in Florida, within a few weeks of Tucker's death, and that of Betty Lou Beets in Texas.<sup>143</sup> They attracted relatively scant public interest. Governor Lawton Chiles in Florida and Governor Bush in Texas were released by the Tucker execution from the strain of performing the bowing-to-pressure versus appearing-bloodthirsty calculus. The execution of Buenoano and Beets did not raise the specter of a wroth public taking political reprisals upon a governor who failed to honor their double standard for death.

### 3. Karla Faye Tucker Scripts a New Character

The execution of Karla Faye Tucker, despite the obvious parallels, was not simply the Texas variation upon the execution of Velma Barfield. Karla Faye Tucker, confined in a cell on death row, contrived to make her own account of the significance of her life and death heard.<sup>144</sup> It was predictable that George W. Bush would have an opportunity to shape the story.<sup>145</sup> Drama was added when well known Christian conservative spokesman Pat Robertson, stepped forward to do the same.<sup>146</sup> But the emergence of Tucker as her own spokesperson was unexpected; especially since she used the platform not only to plead her case, but to contest the meaning of her death with her supporter, Pat Robertson, and her executioner, George W. Bush.

George W. Bush, conservative Republican Governor of Texas, assumed the only viable public role available to him in the matter of the Tucker execution. He defended gender equality in susceptibility to capital punishment. Bush portrayed himself as a dutiful executive unmoved by political pressure: "The gender of the murderer did not make any difference to the victims."<sup>147</sup> Bush explained his decision to deny clemency with these

---

141. *Id.* at 146.

142. *Id.* at 155.

143. See Streib, *supra* note 4; Bruni, *supra* note 41, at A12.

144. See, e.g., *Larry King Live*, *supra* note 93.

145. Cf. BUSH, *supra* note 5, at 140.

146. See, e.g., *id.* at 144.

147. Statement of Bush's communications director. *Id.* at 145.

words: "When I was sworn in as the Governor of Texas, I took an oath of office to uphold the laws of our state, including the death penalty. My responsibility is to ensure our laws are enforced fairly and evenly without preference or special treatment[.]"<sup>148</sup> Bush took the egalitarian position in trepidation that it was merely the best available among bad choices: It proved to be a better choice than he knew because it reflects the actual, rather than the feared, expectations of the contemporary electorate.

Bush, more than Jim Hunt, had reason to be concerned about alienating the conservative Christian right, whose active continuing support he courted in both Texas and national politics. Pat Robertson and some Christian conservative leaders advocated clemency for Tucker because of her Christian transformation and her exemplary witness "to the redeeming power of faith[.]"<sup>149</sup> But Bush had a rejoinder to his fellow Christians to which Pat Robertson had, at least as yet, no adequate response: "If I accepted that Karla Faye Tucker was a changed person because of her faith, how should Texas respond when a Muslim or Jew—or a Christian man—made the same argument?"<sup>150</sup> Although Pat Robertson never frankly stated that he took up Tucker's cause because she was a Christian woman and in fact denied both gender favoritism and Christian partisanship,<sup>151</sup> his denials are unpersuasive. He had never taken up the cause of any death row prisoner before the Tucker execution.<sup>152</sup>

Robertson's support of Karla Faye Tucker testifies to both Tucker's very considerable personal attractiveness and the authenticity of her Christian conviction. Robertson describes himself as a staunch advocate of capital punishment, when swiftly administered, because of its deterrent value.<sup>153</sup> Robertson characterized the death penalty in the Tucker case as cruel, an act of vengeance where Christian teaching called for mercy:

I am one who has supported the death penalty for hardened criminals. But I do think that any justice system that is worthy of the name must have room for mercy. And there are times for mercy. In the case of Karla Faye Tucker, she is not the same person who committed those heinous ax murders some 14 ½ years ago. She is totally transformed,

---

148. *Id.* at 154.

149. *Id.* at 146.

150. *Id.* at 150.

151. *See Larry King Live* (CNN television broadcast, Jan. 15, 1998).

152. *See id.*

153. *See Christian Walk, Pat Robertson's Perspective* (visited June 21, 2000) <<http://www.cbn.org/living/christianwalk/interviews/karla-press.asp>>.

and I think to execute her is more an act of vengeance than it is appropriate justice.<sup>154</sup>

Robertson was asked to clarify the basis of his support: was clemency appropriate for sincere and repentant men and for adherents of other religions? The following exchange took place between television talk-show impresario Larry King and Robertson a few weeks before the execution:

King: If Karla Faye Tucker was Carl Tucker, would you be here tonight?

Robertson: I don't think that really makes any difference. It shouldn't be the sex of the person.<sup>155</sup>

The implication that Tucker's sex and religion were not reasons for Robertson's support lacks all credibility. In the contemporary death penalty era, execution follows long years on death row; the average length of time between condemnation and execution exceeds ten years.<sup>156</sup> Conversion and religious conviction are not in short supply on America's death rows; attractive white Christian women, however, are rare. I am not privileged to know whether, when Robertson first took up Tucker's cause, he anticipated being asked about parity of support for other kinds of death row inmates, or whether his advocacy of Tucker will ever spark such investments of his considerable political capital.<sup>157</sup> What is patent, though, is that in the current climate Robertson had to conform his statements to the norm of legal equality. Had he not done so he would have forfeited his effectiveness in advocating for Tucker and perhaps his agenda at large.

Karla Faye Tucker was portrayed by the media and by Governor Bush as asking for special dispensation from death because of her gender and religion.<sup>158</sup> Her late-in-life media stardom was undoubtedly attributable to her being a woman awaiting execution, as she herself acknowledged.<sup>159</sup> If fully candid and immodest she would have had to admit that her good looks, charisma, and articulateness, in combination with her gender and circumstances, whetted both the media and the public's appetite for her interviews and appearances. Karla Faye certainly used her media access to

---

154. *Id.*

155. *Larry King Live*, *supra* note 152.

156. *Cf.* CAPITAL PUNISHMENT 1998, *supra* note 3, at 1.

157. On April 8, 2000, Robertson endorsed a moratorium on capital punishment in response to a question posed after his address on religion and capital punishment at a law school symposium. *See Robertson Backs Death Penalty Moratorium*, N.Y. TIMES, April 9, 2000, at 25. He expressed concerns about fairness to minority prisoners and those unable to afford high priced attorneys. *See id.*

158. *Cf.* BUSH, *supra* note 5, at 150.

159. *See Larry King Live*, *supra* note 93.

plead her case, but unlike Pat Robertson she did not engage in special pleading for herself as a Christian woman. She made the Christian case for universal abolition.

Tucker's signal achievement, her breakthrough, did not lie in any particular argument she made, but in her ability, at least for a time, to reframe the issue of capital punishment, support for which has been politically impregnable in the United States since the 1970's. She did this by revealing her simple humanity and her kinship with those not on death row for horrible crimes. Karla Tucker, as those of us learned who saw her hour-long interview on Larry King Live in January of 1998, had become a woman of breathtaking ordinariness. She was no longer the drugged up, two-fisted bad girl who had committed the murders. Nor was she a husk or a shell, asking for pity because of her life circumstances prior to her crimes or her years of living under the threat of execution. We saw a woman who was unmistakably morally mainstream. Her perspective on her life and her crimes united her with her audience.

Tucker made two arguments for the lives of death row inmates, each founded on Christian teaching. She expressed herself as against not only capital punishment but also other willful taking of life, including abortion and euthanasia.<sup>160</sup> She also argued that any sincerely repentant person, male or female, leading a blameless or constructive life in prison, should have their sentence commuted.<sup>161</sup> She never asked to be spared because of her sex, as she explained to the *Houston Chronicle*: "Either you believe [in the death penalty] for everybody or you don't believe in it for anybody."<sup>162</sup> Karla Faye Tucker asked the Governor of Texas and the people of the United States to spare everybody on death row because they were human beings like herself and those who heard her.

### III. THE FUTURE OF EXECUTION OF WOMEN IN THE USA

The near-term future of execution of women in the United States is likely to resemble the recent past. The executions of Judi Buenoano in 1998, and Betty Lou Beets in 2000, were accompanied by only faint echoes of the excitement that swirled around the Barfield and Tucker executions. Unless renewal of abolitionist sentiment forestalls the dramatic increase in the pace of executions of the last few years, we are likely to see further executions of women occur with as little strain as was felt in Buenoano's or Beets' departures. Indeed, with the Beets and Buenoano executions, we have seen

---

160. *See id.*

161. *See id.*

162. Carl T. Rowan, *Sickening Example of Death Penalty's Flaws*, *HOUSTON CHRON.*, Jan. 16, 1998, at 36.

a reassertion of the gender stereotyping that has historically dehumanized despised female murderers. Both these women were styled "Black Widows,"<sup>163</sup> a label that imposes psychic distance and deploys sexualized fear and hostility. A fifth woman was executed in Arkansas on May 2, 2000, with similarly modest publicity and no press speculation about whether the Governor would allow the execution of a woman.<sup>164</sup> Whether there will be any lasting repercussions of Karla Faye Tucker's witness for the damned remains to be seen. If so, it will be as part of a renewed movement for abolition for the thousands on death row of both sexes.

---

163. Betty Lou Beets was styled the "Black Widow of Henderson County[.]" Jennings, *supra* note 109, at A1. Prosecutors called Judi Buenoano the "Black Widow." *E.g.*, Spirduso, *supra* note 104, at A1.

164. See Emily Yellin, *Arkansas Executes a Woman Who Killed Both Her Children*, N.Y. TIMES, May 3, 2000, at A22.