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REFLECTIONS ON THE DEATH PENALTY AND CATHOLIC SOCIAL TEACHING

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Abstract

Catholic social teaching has a great deal to guide us on the topic of the death penalty, especially with respect to the inherent dignity of the human person. The death penalty remains a staple of the American criminal justice system for a majority of the fifty states and federal government, but public sentiment is becoming increasingly skeptical about its ultimate effectiveness. In the following I review that part of Catholic social teaching that speaks to the death penalty and I reflect on the struggle to abolish the death penalty.

Introduction

In 1972 the U.S. Supreme Court struck down existing death penalty statutes in the famous case of *Furman v. Georgia*. The Justices writing for the court majority referred to the death penalty as “wantonly and freakishly imposed,” “arbitrarily inflicted,” and “degrading to human dignity.” They described it as “debasing and brutalizing to us all,” noting that the “discretionary statutes...are pregnant with discrimination.” One Justice observed simply that the death penalty was “abhorrent to currently existing moral values” (Bedau, 1982, p. 247-270).

What strikes this reader is the moral tone of the pronouncements rendered by the 5-4 majority: “Degrading to human dignity.” “Abhorrent to currently existing moral values.” This sounds like the language one might hear from a pulpit, or at a meeting of Amnesty International. But, no, this is the wording of the U.S. Supreme Court in one of the century’s most famous decisions. The irony, of course, is that thirty-four years after *Furman*, these same words describe today’s ultimate punishment, a punishment reinstated in the case of *Gregg v. Georgia* (1976).

Why do we have a death penalty in Texas? I contend that the death penalty is carried out not because Texans actively *demand* it, but because Texans are largely *indifferent* to it. In short, Texas is a death penalty culture. This means that it is possible for one to grow up in Texas and never have a teacher educate you about the death penalty, never hear a religious leader preach on the death penalty, never have a governor oppose it, and never read a newspaper editorial against it. As a result, one can simply conclude that, as a friend of mine once said, “It must be okay to have a death penalty since nobody seems to object to it.”

But things are not, as is always the case, so clear or unanimous. Public support for the death penalty is at a 19-year low, down to 65 percent support compared to over 85 percent support in the early 1980s. Anti-death penalty advocate Sister Helen Prejean, author of *Dead Man Walking*, is one of the most popular public speakers in the U.S.,

attracting huge crowds for her lectures. She has even been nominated for the Nobel Peace Prize. And, importantly, over 60 percent of the public favors suspending the death penalty until questions of its fairness can be fully studied (www.dpic.org).

There are many things we need to know as we look at the death penalty in Texas. The Texas death penalty has:

- Executed people like Larry Robison who were mentally ill;
- Executed people like Mario Marquez who were mentally retarded;
- Executed people like Gerald Mitchell who were children when they killed;
- Executed people like Miguel Flores who were foreign nationals;
- Executed people like Karla Fay Tucker who have been reformed;
- Sentenced to death people like Kerry Max Cook who were innocent; and
- Executed people like Reuben Cantu who were innocent.

Catholic Social Teaching and the Death Penalty

Catholic social teaching addresses ten key principles: human dignity, community and the common good, human rights and responsibilities, option for the poor and vulnerable, participation by all in society, the dignity of work and the rights of workers, stewardship of creation, global solidarity, a constructive role for government, and the promotion of peace (www.osjspm.org). One can reasonably see implications for the death penalty in each of these principles, but it is perhaps in the theme of human dignity where the case is made the strongest:

Belief in the inherent dignity of the human person is the foundation of all Catholic social teaching. Human life is sacred, and the dignity of the human person is the starting point for a moral vision for society. This principle is grounded in the idea that the person is made in the image of God. (www.osjspm.org).

In other words, if human life is sacred and the human person is bestowed with dignity, it is not just for intentional and deliberate murder to be undertaken, either by citizens or the government. The execution of a defenseless prisoner by the state is wrong, just as the killing by that prisoner of another person is wrong. Or, as death penalty opponents argue, how does murdering the murderer show that murder is wrong?

First, abolition sends a message that we can break the cycle of violence, that we need not take life for life, that we can envisage more humane and more hopeful and effective responses to the growth of violent crime....Second, abolition of capital punishment is also a manifestation of our belief in the unique worth and dignity of each person from the moment of conception, a creature made in the image and likeness of God....Third, abolition of the death penalty is further testimony to our conviction, a conviction which we share with the Judaic and Islamic traditions, that God is indeed the Lord of life....Fourth, we believe that

abolition of the death penalty is most consistent with the example of Jesus, who both taught and practiced the forgiveness of injustice (www.usccb.org).

The United States Conference of Catholic Bishops (USCCB) has, for more than 30 years, been a strong opponent of the death penalty. In 1974 the USCCB voted to declare its opposition to the death penalty and has reaffirmed that position in two statements, one in 1980, the other in 2005. The Bishops observed in 1980 that the “legitimate purposes of punishment do not justify the imposition of the death penalty.” and “that abolition of the death penalty would promote values that are important to us as citizens and as Christians:

The Bishops 1980 statement further observed that there are many difficulties inherent in capital punishment:

1. Infliction of the death penalty extinguishes possibilities for reform and rehabilitation for the person executed as well as the opportunity for the criminal to make some creative compensation for the evil he or she has done.
2. Imposition of capital punishment involves the possibility of mistake.
3. The legal imposition of capital punishment in our society involves long and unavoidable delays.
4. The actual carrying out of the death penalty brings with it great and avoidable anguish for the criminal, for his family and loved ones, and for those who are called on to perform or to witness the execution.
5. Executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion.
6. Many convicted criminals are sentenced to death in an unfair and discriminatory manner (www.usccb.org).

In 2005 the USCCB renewed its call for an end to the death penalty in a document titled *A Culture of Life and the Penalty of Death*. The bishops noted that “This is a time to teach clearly, encourage reflection, and call for common action in the Catholic community to bring about an end to the use of the death penalty in our land” (www.usccb.org). Further, they observed that “it is time for our nation to abandon the illusion that we can protect life by taking life” (www.usccb.org). Their argument against the death penalty is stated clearly in the opening of the document:

- The sanction of death, when it is not necessary to protect society, violates respect for human life and dignity.
- State-sanctioned killing in our names diminishes all of us.
- Its application is deeply flawed and can be irreversibly wrong, is prone to errors, and is biased by factors such as race, the quality of legal representation, and where the crime was committed.
- We have other ways to punish criminals and protect society (www.usccb.org).

Catholic social teaching is clear and unequivocal about the death penalty—it has no proper place in any society. The death penalty is an affront to reason and faith. It debases and devalues the dignity of the human person, and it contributes to a cultural

climate already plagued by too much violence. What needs to happen is the abolition of the death penalty. But the abolition of the death penalty will come only in one of two ways—state supreme courts and/or the U.S. Supreme Court will invalidate death penalty laws, or the state legislatures will abolish their respective death penalty laws. Either way, an enlightened and informed citizenry is crucial to the outcome, and this is where the public campaign against the death penalty has historically focused—educating people about capital punishment.

Reflections on “The Movement”

In the spring of 1969 I was a senior in high school in my hometown of Dodge City, Kansas when I read an editorial in the *Wichita Eagle* that infuriated me. The editorial called for the execution of Kansas prisoners who were guilty of capital murder. So I did what enraged high school seniors do—I wrote a letter to the editor. I marshaled all the arguments I could think of as to the futility of the death penalty and even got a great quote from J.R.R. Tolkien to use for support. The *Eagle* published the letter. (And years later the paper renounced its support for the death penalty and is now one of the Midwest’s strongest newspaper voices against the death penalty, a change that I, of course, claim some credit for).

Not long after the letter was published, a former convict at San Quentin named Bill Sands was invited to participate in a local community college lecture series and gave a moving speech on prison reform. I had already read Sands’ autobiography, *My Shadow Ran Fast*, a 1964 New York Times bestseller, as well as his 1967 book, *The Seventh Step*, a work that described the rehabilitation program he established for ex-convicts. Following Bill’s talk I spent time with him at a reception. I thought he might be somewhat interested in my letter to the editor, so I showed it to him and he read it carefully. For more than an hour that evening Bill and I talked and rather quickly became friends. The next morning we carried on more conversation and pledged to stay in contact via the mail (which we did). About two months after our initial visit Bill called me and asked if I would like to be part of a documentary team that would film “life on death row” at the Arkansas death row at the state prison in Tucker, Arkansas. I, of course, jumped at the chance and got out of two weeks of college in early September, 1969 to accompany Bill’s 19-person film crew. The first week of this adventure was spent at Tucker, virtually all of it on death row. There were 17 men on the row at this time, including some black prisoners who had been given death sentences for raping white women. (In 1977 the U.S. Supreme Court invalidated death as a punishment in cases of rape). The death row prisoner I came to know best was a middle aged black man named Lonnie B. Mitchell, Jr. (death row number SK-813). Lonnie was one of the prisoners given a death sentence for rape. He was the senior man on the row, having accumulated more than 11 years facing execution. During his stay on death row he had three cellmates executed and had come within a couple of hours of his own execution before a stay saved him. Lonnie was convinced that he would eventually die in the electric chair.

After the first week of filming at Tucker, we packed up and took off for Washington, D.C. (to do filmed interviews with Senators Charles Percy and Daniel Inouye), then to New York City (to do a filmed interview with Norman Vincent Peale), and finally to a small village in upstate New York to film an interview with author Philip Wylie. After two weeks of being gone from community college, I figured that I should get back to school while Sands' film crew returned to California for more work. Sadly, about two weeks after Bill and the rest of the crew had returned to California and I had returned to classes, Bill suffered a massive heart attack and died. (And I never got to see any of the interviews, nor any of the hours and hours of "life on the row" that we had documented).

Over the next 15 months Lonnie Mitchell and I carried on an extensive correspondence. In the fall of 1970 I thought it would be good to return to Arkansas' death row and see Lonnie and the others, so with the permission of the director of corrections I returned to death row in December, 1970. As soon as I entered the row, the men informed me that outgoing governor Winthrop Rockefeller was considering commuting some death sentences. And, that is exactly what happened the very next day when Rockefeller commuted all of their death sentences to life in prison. I was on the row when the warden came in with the news of the commutations, and the celebration that followed that announcement was simply unbelievable. (This event is told in more detail in my article in the 2002 University of the Incarnate Word faculty anthology, *Religion and Society*). Until outgoing Illinois Governor George Ryan issued four pardons and commuted 156 death sentences in 2003, Rockefeller's action was the single largest number of death row pardons in one day in American history.

I share the above history as a way of describing my entrée into the anti-death penalty movement. In the 37 years since I first stepped foot into Arkansas's death row, I have never wavered in my opposition to the death penalty. Over this time I have given hundreds of speeches, penned numerous newspaper opinion columns, presented many scholarly papers, written many journal articles, and pounded the pavement in countless demonstrations. I am on the board of directors of the Texas Coalition to Abolish the Death Penalty and have served on many other anti-death penalty organizations. I teach about the death penalty in my sociology classes; indeed, in spring, 2007 I will teach a selected topics course on the "Sociology of the Death Penalty."

Looking at my involvement in this movement, I think I have learned, among others, three things. First, the strongest voices against the death penalty are the voices of those speaking from religious conviction, particularly the Catholic religious. From Sister Helen Prejean to the many members of orders and congregations that have poured their energy, spirit, and resources into the movement, the voice of Catholic social teaching infuses and energizes those of us who work against state extermination. Second, I have learned that you never want to give up on anybody. People who you might think will never come over to your side sometimes do. For example, George Ryan voted as a legislator to reinstate the Illinois death penalty; years later he converted to a total abolitionist. Third, I have learned that this is hard work. Living in a death penalty culture means that people in this struggle face discouragement, burn out, and feelings of

frustration. Still, we persist, taking solace and support from one another and from new-found friends, and even celebrating the occasional victory.

Death Penalty by the Numbers

There are many important numbers to know when discussing the death penalty. Some of the most important numbers (www.dpic.org) include:

- 3,366 the number of death row prisoners nationwide;
- 1,060 the number executed in the U.S. since the resumption of the death penalty in 1977;
- 376 the number of persons executed in Texas since executions resumed in 1982;
- 123 the number of innocent people released from the nation's death rows in recent years;
- 53 the percent by which the homicide rate is higher in states with the death penalty than in states without the death penalty;
- 52 the percent of Texas death penalty convictions overturned because of serious error (e.g., incompetent defense, police suppression of exculpatory evidence, prosecutorial misconduct, misinformed jurors, and biased judges);
- 12 the number of states without a death penalty;
- 8 the number of innocent men released from the Texas death row in recent years;
- 4.3 the numbers of times more likely for killers of whites than killers of blacks to get a death penalty;
- 2.3 the millions of dollars needed on average to carry through on a Texas execution in the early-1990s as calculated by the Dallas Morning News. Costs include capital trial, federal and state appeals, stay on death row, and the execution;
- 1 the number of Western industrial democracies that have the death penalty – the United States.
- 0 the number of executions that someday will happen in the U.S.

The days for the death penalty are numbered, in part because it does not accomplish what its staunchest supporters claim. It does not deter murder. It is racially biased in its application. It is a punishment reserved for the poor and working poor. It makes mistakes and executes innocent people. It costs valuable tax dollars that could be better spent fighting poverty, supporting police anti-gang efforts, providing better mental health services, and helping rehabilitate drug addicts. It does not provide for healthy closure for victims' families. It diminishes our moral authority and is a grave human rights violation. It is, as one Justice observed in *Furman*, "abhorrent to currently existing morals values."

Let us all reflect on the profound observation of Mother Theresa, who spent a day on California's death row at San Quentin Prison and commented to reporters simply this: "Remember, what you do to these men, you do to God." Let us indeed reflect on those words and commit ourselves to the abolition of this disgraceful and unnecessary barbarism.

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Web sites: Death Penalty Information Center <http://www.dpic.org>; Office for Social Justice, Archdiocese of St. Paul and Minneapolis; <http://osjspm> United States Conference of Catholic Bishops <http://usccb.org>