

Kenneth R. Overberg, S.J.

The Death Penalty

Why the Church Speaks a Countercultural Message

If someone murdered your child or closest friend, what punishment would you want for the criminal? If you were simply asked your opinion about capital punishment, how would you respond? What reasons would you give for your answer?

Recent polls show that 75 percent of U.S. citizens favor the death penalty. Yet the U.S. Catholic bishops, along with many other Christians and Jews, have spoken out against capital punishment. Beyond polls and statements, powerful scenes dramatize opposing viewpoints: people protesting a death sentence with candlelight vigils, while others gather as if at a party shouting, "Kill the scum!"

This *Update* considers these profound differences in our society, summarizes the teaching of the U.S. bishops and tells a mother's true story of horror and reconciliation after the murder of her daughter.



Conflicting public opinion

In 1966, less than half of the U.S. population approved of the death penalty. Now polls indicate that about 75 percent approve. Why this dramatic change in public opinion? Certainly, a major factor is the increasing fear and frustration concerning violent crime. Something must be done! Many people turn to the death penalty as a possible remedy. Not only has the public turned in favor of capital punishment, but the U.S. government has also recommended that many more crimes be punishable by the death penalty. This renewed approval reflects traditional reasons for supporting the death penalty: deterrence and retribution. Some who support capital punishment do so because they judge that the threat of death will prevent people from committing crimes. Others judge that

some crimes are so horrible that the only appropriate punishment is death.

Those people who oppose the death penalty, however, challenge these traditional reasons. They point out that there is no solid evidence that the death penalty serves as a deterrent. Indeed, they note, examples point in the opposite direction: Some countries that have eliminated the death penalty have had decreasing rates of violent crime, and some death-penalty states have had increasing rates of homicide. Supporters of capital punishment counter with the argument that the death penalty would be more effective as a deterrent were it not for the many appeals, long delays and limited numbers of those actually executed.

Similar debates surround the issue of retribution. Opponents of capital punishment claim that there is no place in a civilized society for justifying death in terms of retribution. They judge such action to be closer to sheer revenge. They doubt that death can be a means of balancing the disturbed equilibrium of justice that resulted from the original crime. Again, supporters counter with the claim that society will not respect the law unless society's sense of justice is satisfied by the criminal's death.

Other supporters claim that retribution is self-justifying, simply a return in kind. Some justify retribution by appealing to the Bible: “[Y]ou shall give life for life, eye for eye, tooth for tooth...” (Exodus 21:23, 24). Scripture scholars tell us that the eye for eye mandate is actually an attempt to limit violence in early Hebrew culture. As we know from experience, violence tends to escalate: If you cut off my finger, I retaliate by cutting off your hand. Eye for eye reduced such escalation. As we will see later in this *Update*, eye for eye must be considered in the context of the whole Bible.

Many people have made up their minds about the death penalty without really thinking out its moral implications. They then find and use studies, statistics and stories to fit their conclusions. Could this be true for you? If so, you—and all who are willing to wrestle with this issue—will have to look behind the convictions and be open to developing a

new attitude. One's gut-level response may be very strong, but it doesn't necessarily lead to good moral decisions.

Teaching of the U.S. bishops

The Catholic bishops of the United States have provided careful guidance about this difficult issue, applying the teaching of the universal Church to our American culture. Along with the leadership assemblies of many Churches (for example, American Baptists, Disciples of Christ, Episcopali-



ans, Lutherans, Presbyterians), the U.S. bishops have expressed their opposition to the death penalty. First articulated in 1974, the bishops' position is explained in a 1980 statement, *Capital Punishment*. Individual bishops and state conferences of bishops have repeated in numerous teachings their opposition to the death penalty.

In their 1980 statement, the bishops begin by noting that punishment, “since it involves the deliberate infliction of evil on another,” must be justifiable. They acknowledge that the Christian tradition has for a

long time recognized a government's right to protect its citizens by using the death penalty in some serious situations. The bishops ask, however, if capital punishment is still justifiable in the present circumstances in the United States.

In this context, the bishops enter the debate about deterrence and retribution. They acknowledge that capital punishment certainly prevents the criminal from committing more crimes, yet question whether it prevents others from doing so. Similarly, concerning retribution, the bishops support the arguments against death as an appropriate form of punishment. The bishops add that reform is a third reason given to justify punishment, but it clearly does not apply in the case of capital punishment. And so they affirm: “We believe that in the conditions of contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty.”

The heart of the matter

As with the debate in our wider society, it is important to move behind the discussion of deterrence and retribution to get to the heart of the bishops' position. The statement does just that, by discussing four related values that would be promoted by the abolition of the death penalty.

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.” The bishops recognize that crime is rooted in the complex reality of contemporary society, including those “social conditions of poverty and injustice which often provide the breeding grounds for serious crime.” More attention should go to correcting the root causes of crime than to enlarging death row.

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.” This belief, rooted in Scripture and consistently expressed in the social teach-

ings of the Church, applies to all people, including those who have taken life.

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." And so human life in all its stages is sacred, and human beings are called to care for life, that is, to exercise good stewardship and not absolute control. The bishops recognize that abortion, euthanasia and the death penalty are not the same issue, but they each point to the same fundamental value: safeguarding the sanctity of life.

Fourth, "we believe that abolition of the death penalty is most consonant with the example of Jesus." In many ways this final point summarizes the other three: the God revealed in the life of Jesus is a God of forgiveness and redemption, of love and compassion—in a word, a God of life. The heart of the bishops' position on the death penalty, then, is found in the gospel.

Gut-level reactions may cry out for vengeance, but Jesus' example in the Gospels invites all to develop a new and different attitude toward violence. The bishops encourage us to embody Jesus' message in practical and civic decisions.

Prisons, victims and more

While the gospel leads the bishops to oppose the death penalty, they also recognize the need society has to protect itself. Imprisonment will be necessary, but ought not to dehumanize the convicts. The bishops summarize what they have developed in other documents: Significant changes in the prison system are necessary to make it truly conducive to reform and rehabilitation.

In their statement on capital punishment, the bishops express special concern for the victims of violent crime and their families. "Our society should not flinch from contemplating the suffering that violent crime brings to so many when it destroys lives, shatters families and crushes the hope of the innocent." Care for victims must be given in practical ways, such as financial assistance, pastoral care, medical and psychological treatment.

Some other difficulties directly related to the death penalty, which the statement

mentions, are: 1) the death penalty removes the possibility of reform and rehabilitation; 2) there is the possibility of putting an innocent person to death; 3) carrying out the death penalty causes anguish not only for the convict's loved ones but also for the executioners and the witnesses; 4) executions attract great publicity, much of it unhealthy; 5) there is legitimate concern that criminals are sentenced to death in a discriminatory way: "It is a reasonable judgment that racist attitudes and the social consequences of racism have some influence in determining who is sentenced to die in our society." Adequate legal representation is an issue that puts poor people at a disadvantage. For many reasons, especially the message of Jesus, the U.S. bishops favor ending the death penalty.

Scripture and tradition

The Bible is often mentioned in debates about the death penalty. Supporters quote the Exodus passage, eye for eye, while opponents appeal to Ezekiel (33:11): "As I live, says the Lord God, I swear I take no pleasure in the death of the wicked man, but rather in the wicked man's conversion, that he may live." In fact, such use of the Bible (finding a "proof text" to affirm one's point of view) is inappropriate.

Scripture scholars teach us to understand the Bible (and its individual books) in historical context: when it was written and why. Thus considered, there is an ambivalence about capital punishment in the Scriptures.

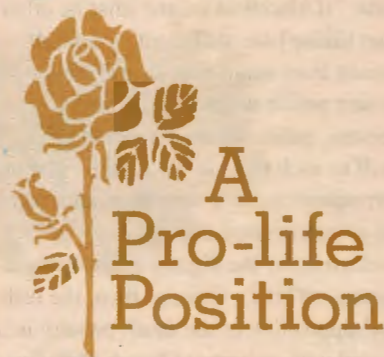
Clearly, the Hebrew Scriptures allowed the death penalty (for a much longer list of offenses than our society would be comfortable with—for example, striking or cursing a parent, adultery, idolatry). Yet, as we see in Ezekiel and many other passages, there is also an attempt to limit violence and to stress mercy. In the Christian Scriptures, Jesus' life and teachings (see the Sermon on the Mount, Matthew 5:1—7:29) focus on mercy, reconciliation and redemption. (It may also be instructive to recall that Jesus' death was itself an application of the death penalty.) The basic thrust of the Gospels supports opposition to the death penalty.

Indeed, the early Church (for example,

"Increasingly, our society looks to...increased reliance on the death penalty to deal with crime. We are tragically turning to violence in the search for quick and easy answers to complex human problems. A society which destroys its children, abandons its old and relies on vengeance fails fundamental moral tests...."

"We cannot teach that killing is wrong by killing....This cycle of violence diminishes all of us—especially our children."

—*Confronting a Culture of Violence: A Catholic Framework for Action* (U.S. Catholic bishops, November 1994)



"We have a very consistent commitment as Church to defending the sanctity of human life. We struggle mightily against abortion; we have a commitment and concern for the poor; we deplore racial and sexual discrimination and the self-destructive use of drugs. Our position against the use of the death penalty falls into that continuum. We believe that an issue such as capital punishment is not just a question of public policy, but is at its very core a moral issue, and therefore a religious issue, and we must speak to it.

—*Archbishop John Roach, St. Paul-Minneapolis*

FOR MORE INFORMATION

Parents of Murdered Children
100 East Eighth St., Suite 41-B
Cincinnati, OH 45202

National Coalition to
Abolish the Death Penalty
918 F Street, N.W., Suite 601
Washington, DC 20004
(video available: "The Religious Community Confronts the Death Penalty")

Question Box

1. How does the bishops' opposition to the death penalty challenge you?
2. Explain how Jesus' words in the Sermon on the Mount speak against vengeance.
3. What is the true meaning of eye for eye?

NEW

in the writings of Clement of Rome [died 101 A.D.] and Justin Martyr [d. 165]) generally found taking human life to be incompatible with the gospel. Christians were not to participate in capital punishment. Later, after Christianity became the religion of the Roman Empire, opposition to the death penalty declined. Augustine recognized the death penalty as a means of deterring the wicked and protecting the innocent. In the Middle Ages, Thomas Aquinas reaffirmed this position.

The new *Catechism of the Catholic Church* reflects this tradition, stating that the death penalty is possible in cases of extreme gravity. However, the *Catechism* adds: "If bloodless means [that is, other than killing] are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons, public authority should limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person" (#2267). Clearly, then, the bishops' opposition to the death penalty is in accord with universal Church teaching.

A mother's story

Despite the message of Jesus and the teachings of the bishops, many people may still be caught up in the anger and outrage over violent crime. Scriptures and teachings seem so remote; debates over deterrence and retribution prove nothing. For all, but especially for those who feel this way, the following true story may be especially challenging.

Marietta Jaeger and her family were on a camping vacation in Montana when her seven-year-old daughter, Susie, was kidnapped. Searches by the FBI and local authorities turned up nothing. Jaeger describes her initial feelings about the kidnapper: "I could kill him. I meant it with every fiber of my being. I'm sure I could have done it with my bare hands and a smile on my face. I felt it was a matter of justice."

Months passed with no new clues, except a few calls from the kidnapper offering to exchange Susie for a ransom—but the kidnapper never made a specific offer. During this time Jaeger "argued and

argued with God," and then "gave God permission to change my heart." Jaeger also began to pray for the kidnapper, acknowledging that "my Christian upbringing and my knowledge of good psychological health had taught me that forgiveness was not an option, but a mandate."

Fifteen months after Susie's kidnapping, the kidnapper was arrested. Although the death penalty was applicable in the case, Jaeger asked the FBI to settle for the alternative, life imprisonment with psychiatric care. Only then did the kidnapper, a young man, finally admit to the rape, strangulation death, decapitation and dismemberment of Susie (within a week of the kidnapping). A short time later, the young man committed suicide.

Jaeger recognizes the need for society to protect itself. "I do not advocate forgiveness for violent people and then release to the streets. I know that there are people who should be separated in a humanely secured manner from the community for the protection of all."

And, of course, she knows intimately the feelings of the victim's family. She understands the desire for revenge, but claims that those who retain an attitude of vindictiveness are tormented, embittered people who have no peace of mind. The quality of their lives is diminished and, in effect, they have given the offender another victim. Jaeger states that the death penalty does not do for the victims' family what they had hoped, but leaves them "empty, unsatisfied and unhealed." She adds, "There is no number of retaliatory

deaths which would compensate to me the inestimable value of my daughter's life, nor would they restore her to my arms." (Jaeger encourages people to contact her at: Murder Victims' Families for Reconciliation, 2093 Willow Creek Rd., Portage, IN, 46368.)

Consistent ethic of life

Marietta Jaeger's profoundly moving story is a striking embodiment of Jesus' message and the bishops' recent teachings. Her life—and the lives of so many others like her—is also a dramatic reminder that the ideal can be lived in the real world. Much in our culture—fears, political platforms, media events—promotes a different message. Jaeger's witness, however, challenges all of us to move beyond brutalization to develop a consistent ethic of life, to appreciate the sanctity of all life. Concrete steps can include such activities as study groups, prayer services, letter writing to state and federal legislators, addressing the root causes of crime in our society, and contacting groups such as those in the box on page 3.

But it all starts with developing a new attitude about violence, an attitude rooted in the countercultural message of the gospel. ■

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(by Jack Wintz, O.F.M.)