

Statement on Capital Punishment

U.S. Bishops, November, 1980

Introduction

In 1974, out of a commitment to the value and dignity of human life, the U.S. Catholic Conference, by a substantial majority, voted to declare its opposition to capital punishment. As a former president of the National Conference of Catholic Bishops pointed out in 1977, the issue of capital punishment involves both "profound legal and political questions as well as 'important moral and religious issues,'" And so we find that this issue continues to provoke public controversy and to raise moral questions that trouble many. This is particularly true in the aftermath of widely publicized executions in Utah and Florida and as a result of public realization that they are awaiting execution in various prisons.

The resumption of capital punishment after a long moratorium which began in 1967, is the result of a series of decisions by the United States Supreme Court. In the first of these decisions, *Furman v. Georgia* (1972), the Court held that the death penalty as then administered did constitute cruel and unusual punishment and so was contrary to the Eighth Amendment to the Constitution. Subsequently in 1976 the Court upheld death sentences imposed under state statutes which had been revised by state legislatures in the hope of meeting the Court's requirement that the death penalty not be imposed arbitrarily. These cases and the ensuing revision of state and federal statutes gave rise to extended public debate over the necessity and advisability of retaining the death penalty. We should note that much of this debate was carried on in a time of intense public concern over crime and violence. For instance, in 1976 alone, over 18,000 people were murdered in the United States. Criticism of the inadequacies of the criminal justice system has been widespread, even while spectacular crimes have spread fear and alarm, particularly in urban areas. All these factors make it particularly necessary that Christians form their views on this difficult matter in a prayerful and reflective way and that they show a respect and concern for the rights of all.

We should acknowledge that in the public debate over capital punishment we are dealing with values of the highest importance; respect for the sanctity of human life, the protection of human life, the preservation of order in society, and the achievement of justice through law. In confronting the problem of serious and violent crime in our society, we want to protect the lives and the sense of security both of those members of society who may become the victims of crime and of those in the police and in the law enforcement system who run greater risks. In doing this, however, we must bear in mind that crime is both a manifestation of the great mysteries of evil and human freedom and an aspect of the very complex reality that is contemporary society. We should not expect simple or easy solutions to what is a profound evil, and even less should we rely on capital punishment to provide such a solution. Rather, we must look to the claims of justice as these are understood in the current debate and to the example and reaching of Jesus, whom we acknowledge as the Justice of God.

1. Purposes of Punishment

Allowing for the fact that Catholic teaching has accepted the principle that the state has the right to take the life of a person guilty of an extremely serious crime, and that the state may take appropriate measures to protect itself and its citizens from grave harm, nevertheless, the question for judgment and decision today is whether capital punishment is justifiable under present circumstances. Punishment, since it involves the deliberate infliction of evil on another, is always in need of justification. This has normally taken the form of indicating some good which is to be obtained through punishment or an evil which is to be warded off. The three justifications traditionally advanced for punishment in general are retribution, deterrence, and reform.

Reform or rehabilitation of the criminal cannot serve as a justification for capital punishment, which necessarily deprives the criminal of the opportunity to develop a new way of life that conforms to the norms of society and that contributes to the common good. It may be granted that the imminence of capital punishment may induce repentance in the criminal, but we should certainly not think that this threat is somehow necessary for God's grace to touch and to transform human hearts.

The deterrence of actual or potential criminals from future deeds of violence by the threat of death is also advanced as a justifying objective of punishment. While it is certain that capital punishment prevents the individual from committing further crimes, it is far from certain that it actually prevents others from doing so. Empirical studies in this area have not given conclusive evidence that would justify the imposition of the death penalty on a few individuals as a means of preventing others from committing crimes. There are strong reasons to doubt that many crimes of violence are undertaken in a spirit of rational calculation which would be influenced by a remote threat of death. The small number of death sentences in relation to the number of murders also makes it seem highly unlikely that the threat will be carried out and so undercuts the effectiveness of the deterrent.

The protection of society and its members from violence, to which the deterrent effect of punishment is supposed to contribute, is a value of central and abiding importance; and we urge the need for prudent firmness in ensuring the safety of innocent citizens. It is important to remember that the preservation of order in times of civil disturbance does not depend on the institution of capital punishment, the imposition of which rightly requires a lengthy and complex process in our legal system. Moreover, both in its nature as legal penalty and in its practical consequences, capital punishment is different from the taking of life in legitimate self-defense or in defense of society.

The third justifying purpose for punishment is retribution or the restoration of the order of justice which has been violated by the action of the criminal. We grant that the need for retribution does indeed justify punishment. For the practice of punishment both presupposes a previous transgression against the law and involves the involuntary deprivation of certain goods. But we maintain that this need does not require nor does it justify taking the life of the criminal, even in cases of murder. We must not remain unmindful of the example of Jesus who urges upon us a teaching of forbearance in the face of evil (Matthew 5:38-42) and forgiveness of injuries (Matthew 18:21-35). It is morally unsatisfactory and socially destructive for criminals to go unpunished, but the forms and limits of punishment must be determined by moral objectives which go beyond the mere inflicting of injury on the guilty. Thus we would regard it as barbarous and inhumane for a criminal who had tortured or maimed a victim to be tortured or maimed in turn. Such a punishment might satisfy certain vindictive desires that we or the victim might feel, but the satisfaction of such desires is not and cannot be an objective of a humane and Christian approach to punishment. We believe that the forms of punishment must be determined with a view to the protection of society and its members and to the reformation of the criminal and his reintegration into society (which may not be possible in certain cases). This position accords with the general norm for punishment proposed by St. Thomas Aquinas when he wrote: "In this life, however, penalties are not sought for their own sake, because this is not the era of retribution; rather, they are meant to be corrective by being conducive either to the reform of the sinner or the good of society, which becomes more peaceful through the punishment of sinners."

We believe that in the conditions of contemporary American society, the legitimate purposes of punishment do not justify the imposition of the death penalty. Furthermore, we believe that there are serious considerations which should prompt Christians and all Americans to support the abolition of capital punishment. Some of these reasons have to do with evils that are present in the practice of capital punishment itself, while others involve important values that would be promoted by abolition of this practice.

2. Christian Values in the Abolition of Capital Punishment

We maintain that abolition of the death penalty would promote values that are important to us as citizens and Christians. 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. It is a manifestation of our freedom as moral persons striving for a just society. It is also a challenge to us as a people to find ways of dealing with criminals that manifest intelligence and compassion rather than power and vengeance. We should feel such confidence in our civic order that we use no more force against those who violate it than is actually required.

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. It is particularly important in the context of our times that this belief be affirmed with regard to those who have failed or whose lives have been distorted by suffering or hatred, even in the case of those who by their actions have failed to respect the dignity and rights of others. It is the recognition of the dignity of all human beings that has impelled the Church to minister to the needs of the outcast and the rejected and that should make us unwilling to treat the lives of even those who have taken human life as expendable or as a means to some further end.

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. It is a testimony which removes a certain ambiguity which might otherwise affect the witness that we wish to give to the sanctity of human life in all its stages. We do not wish to equate the situation of criminals convicted of capital offenses with the condition of the innocent unborn or of the defenseless aged or infirm, but we do believe that the defense of life is strengthened by eliminating exercise of a judicial authorization to take human life.

Fourth, we believe that abolition of the death penalty is most consonant with the example of Jesus, who both taught and practiced the forgiveness of injustice and who came "to give his life as ransom for many." (Mark 10:45) In this regard, we may point to the reluctance which those early Christians who accepted capital punishment as a legitimate practice in civil society felt about the participation of Christians in such an institution and to the unwillingness of the Church to accept into the ranks of its ministries those who had been involved in the infliction of capital punishment. There is and has been a certain sense that even in those cases where serious justifications can be offered for the necessity of taking life, those who are identified in a special way with Christ should refrain from taking life. We believe that this should be taken as an indication of the deeper desires of the Church as it responds to the story of God's redemptive and forgiving love as manifest in the life of his Son.

3. Difficulties Inherent in Capital Punishment

With respect to the difficulties inherent in capital punishment, we note first that 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. It also cuts off the possibility for a new beginning and of moral growth in a human life which has been seriously deformed.

Second, the imposition of capital punishment involves the possibility of mistake. In this respect, it is not different from other legal processes; and it must be granted our legal system shows considerable care for the rights of defendants in capital cases. But the possibility of mistake cannot be eliminated from the system. Because death terminates the possibilities of conversion and growth and support that we can share with each other, we regard a mistaken infliction of the death penalty with a special horror, even while we retain our trust in God's loving mercy.

Third, the legal imposition of capital punishment in our society involves long and unavoidable delays. This is in large part a consequence of the safeguards and the opportunities for appeal which the law provides for defendants; but it also creates a long period of anxiety and uncertainty both about the possibility of life and about the necessity of reorienting one's life. Delay also diminishes the effectiveness of capital punishment as a deterrent, for it makes the death penalty uncertain and remote. Death Row can be the scene of conversion and spiritual growth, but it also produces aimlessness, fear, and despair.

Fourth, we believe that 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 to perform or to witness the execution. Great writers such as Shakespeare and Dostoyevsky in the past and Camus and Orwell in our time have given us vivid pictures of the terrors of execution not merely for the victim but also for bystanders.

Fifth, in the present situation of dispute over the justifiability of the death penalty and at a time when executions have been rare, executions attract enormous publicity, much of it unhealthy, and stir considerable acrimony in public discussion. On the other hand, if a substantial proportion of the more than five hundred persons now under sentence of death are executed, a great public outcry can be predicted. In neither case is the American public likely to develop a sense that the work of justice is being done with fairness and rationality.

Sixth, there is a widespread belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner. This belief can be affirmed with certain qualifications. There is a certain presumption that if specific evidence of bias or discrimination in sentencing can be provided for particular cases, then higher courts will not uphold sentences of death in these cases. But we must also reckon with a legal system which, while it does provide counsel for indigent defendants, permits those who are well off to obtain the resources and the talent to present their case in as convincing a light as possible. The legal system and the criminal justice system both work in a society which bears in its psychological, social, and economic patterns the marks of racism. These marks remain long after the demolition of segregation as a legal institution. The end result of all this is a situation in which those condemned to die are nearly always poor and are disproportionately black." Thus 47% of 'the inmates on Death Row are black, whereas only 11% of the American population is black. Abolition of the death penalty will not eliminate racism and its effects, an evil which we are called to combat in many different ways. But 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. This we do not regard as acceptable.

4. Conclusions

We do not propose the abolition of capital punishment as a simple solution to the problems of crime and violence. As we observed earlier, we do not believe that any simple and comprehensive solution is possible. We affirm that there is a special need to offer sympathy and support 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 hopes of the innocent. Recognition of this suffering should not lead to demands for vengeance but to a firm resolution that help be given to the victims of crime and that justice be done fairly and swiftly. The care and the support that we give the victims of crime should be both compassionate and practical. The public response to crime should include the relief of financial distress caused by crime and the provision of medical and psychological treatment to the extent that these are required and helpful. It is the special responsibility of the Church to provide a community of faith and trust in which God's grace can heal the personal and spiritual wounds caused by crime and in which we can all grow by sharing one another's burdens and sorrows.

We insist that important changes are necessary in the correctional system in order to make it truly conducive to the reform and rehabilitation of convicted criminals and their reintegration into society. We also grant that special precautions should be taken to ensure the safety of those who guard convicts who are too dangerous to return to society. We call on governments to cooperate in

vigorous measures against terrorists who threaten the safety of the general public and who take the lives of the innocent. We acknowledge that there is a pressing need to deal with those social conditions of poverty and injustice which often provide the breeding grounds for serious crime. We urge particularly the importance of restricting the easy availability of guns and other weapons of violence. We oppose the glamorizing of violence in entertainment, and we deplore the effect of this on children. We affirm the need for education to promote respect for the human dignity of all people. All of these things should form part of a comprehensive community response to the very real and pressing problems presented by the prevalence of crime and violence in many parts of our society.

We recognize that many citizens may believe that capital punishment should be maintained as an integral part of our society's response to the evils of crime, nor is this position incompatible with Catholic tradition. We acknowledge the depth and the sincerity of their concern. We urge them to review the considerations we have offered which show both the evils associated with capital punishment and the harmony of the abolition of capital punishment with the values of the Gospel. We urge them to bear in mind that public decisions in this area affect the lives, the hopes and the fears of men and women who share both the misery and the grandeur of human life with us and who, like us, are among those sinners whom the Son of Man came to save.

We urge our brothers and sisters in Christ to remember the teaching of Jesus who called us to be reconciled with those who have injured us (Matthew 5:43-45) and to pray for forgiveness for our sins "as we forgive those who have sinned against us." (Matthew 6:12) We call on you to contemplate the crucified Christ who set us the supreme example of forgiveness and of the triumph of compassionate love.