

CAPITAL PUNISHMENT AND CHRISTIAN ETHICS

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the Bible will also be studied and the words of God and of Jesus Christ revealed. Finally, I will propose what I believe should be the Church's position as a public institution in this country, as well as the Christian's role in carrying out the word of God.

The issue of capital punishment is not one that Christians should easily be able to pass over and forget, religiously or morally. As stated earlier, we have been instructed by Christ to care for our brothers and sisters. And who is our brother or sister? This is anyone who needs our help, anyone we know, anyone in this world. From the song "Let There Be Peace on Earth" comes the line "With God as our Father, brothers all are we./ Let me walk with my brother in perfect harmony." If we are failing to recognize those on death row, we are not treating our brother with the love and care he deserves as a fellow child of God. As Jesus says, "When you do this to the least of these my brethren, you do it unto me. When you do not do this to the least of these my brethren, you do not do it unto me." Later, in this same passage, as one of His examples, Jesus talks about when He (or one of our brothers) was in prison and we either did or did not visit Him. This, He tells us, is the same as either visiting Jesus as though He were in prison, or not visiting Him.

Many Christians would argue that those who call themselves Christians truly cannot accept that title unless they act as Christ would act. If we idly sit by as criminals are being executed, we cannot rightfully call ourselves children of the living, loving God. We must ask ourselves how important a human

I. INTRODUCTION

Capital punishment. "An eye for an eye." Retaliation. Revenge. What is the purpose of our criminal justice system-- simply to "get back at people" for what they have done to us? To do justice? To promote the image to the general public that something is being done on their behalf? The general public often thinks of criminal justice in simple, retributive terms: "Let criminals get what they deserve." But what does the Church as a public institution and, more importantly, as a representative of the teachings of Christ, have to say about capital punishment, the death penalty, and death row? Jesus Christ, through teachings and parables, gave specific principles to guide our treatment of our neighbors, those we should call our "brothers." If we proclaim that we are Christians and our entire lives follow the teachings of the New Testament, how can we dismiss this "life-focus" when dealing with violent criminals, such as those who have been sentenced to death?

Throughout the course of this paper I will examine the manner of punishment called the death penalty (or capital punishment), reviewing the arguments in support of it and against it. By observing actual capital cases, I will consider the role that capital punishment fulfills in our society and the problems it solves, as well as the shortcomings and problems that it introduces or does not solve in our society. Since it has much to say about the death penalty and treatment of our fellow man,

life is to God, which is how important it should be to us also, if we are to serve as extensions of His love. It is my intention to argue that we as Christians must take a more active role in the issue of criminal justice, especially when it relates directly to the lives of our fellow humans, our brothers and sisters.

II. AN ABRIDGED HISTORY OF CAPITAL PUNISHMENT

I will begin the main body of this paper with two rather stinging indictments from Charles Duff in A Handbook on Hanging:

In regards to the death penalty and the methods by which men are killed, one fact emerges: man has not grown less cruel with the passage of that illusory thing called time; though in most parts of the world he has become a far greater hypocrite than he used to be (Duff 11).

Indeed the history of killing is the history of the world; and it is therefore hardly surprising to find that in nothing has man shown greater ingenuity than in inventing and perfecting methods and machines for killing his fellow man (Duff 12).

Origin of Capital Punishment

Many people, especially those who call themselves Christians, would be very surprised to learn that the first mention of the death penalty in religious history is not from some extremist who believes all people are inherently evil, or who only thinks of revenge. The first mention of the death penalty occurs in the Holy Bible, in the ninth chapter of Genesis. This is immediately after Noah and his family are allowed to leave the ark after 150 days. God is speaking directly to Noah when he tells him that He will no longer perform

the task of punishment for those who break the Law, but that this function must now be carried out by Noah and his family. And God says

Only you shall not eat flesh with its life, that is, its blood. For your lifeblood I will surely require a reckoning; of every beast I will require it and of man; of every man's brother I will require the life of man. Whoever sheds the blood of man, by man shall his blood be shed; for God made man in His own image (Genesis 9:4-6, Revised Standard Version).

This message of God is followed through the entire Old Testament, although it sharply contradicts the teaching of Jesus in the New Testament. This conflict will be explored in more depth later in this paper.

Summary of Past Treatment of the Death Penalty

The 1972 Furman v. Georgia Supreme Court decision which abolished the death penalty brought about the first time in American history that the death penalty had ever been judicially declared illegal or wrong. This decision reversed a long history of the acceptability of the execution (often public) of our fellow man. As stated earlier, the killing of humans was first allowed--even ordered--by God among those who, in the biblical story are the "righteous" who are saved from the flood: Noah and his family. The Old Testament continuously reiterates this Supreme command as it proceeds throughout the history of the Israelites and those preparing for the coming of the Messiah (Numbers 35:31, where God orders us to put murderers to death; Habakkuk 2:8, which states that "because you have plundered, you shall also be plundered;" Ezekiel 16:35-43, where God tells how

he will punish the harlots for not following Him). Also during the first centuries A.D., the Romans were noted for practicing the "art" of execution, including their execution of Christ and of various Christians. A good example of this is the death of Peter, who, it was said, was hung on an upside-down cross (because he did not want to be executed in the same manner as the Son of God) and was left to die. (He did not break the Law of God or shed anyone's blood, but he was found guilty of breaking the law of the Romans.) These biblical examples of the death penalty illustrate the lack of sanctity towards the human life found in this time in history.

In the era of Henry VIII of England, the death penalty was more common (or at least more documented) than at any other time in history. During his reign, the number of executions due to the death penalty (death as a form of punishment in general) was 72,000 executions (Duff 104).

Beginning in the 1700s and continuing into the 1800s the death penalty was very common, especially in England, and the most frequently used method of execution was hanging. The day of the execution came to be a day when the entire town would gather together as though it were a festival; sometimes they even made this "event" into a town picnic. As recent as 1930, most Christian churches in England still supported the death penalty. In fact, when examining the position at the time in regard to the death penalty, James Berry, who officiated at many of the hangings, stated that "its two greatest supporters were the Law

and the Church, as they always have been in the past; for which, may the Lord make us truly thankful" (Duff 105-106).

Recent Court Decisions and Current Situation

Prior to 1977, the last court-ordered execution in this country had been in Colorado on June 2, 1967. But from 1968 until 1971, there were no executions in the United States, though it was legally permitted by the federal government, but not every state imposed the death penalty (Wilkinson 193). Before 1972, every state that did support the death penalty decreed that once a defendant was convicted of a capital offense, the jury should have absolute discretion to determine whether a sentence of death or of life imprisonment should be imposed. In the case of *Furman v. Georgia*, however, the United States Supreme Court ruled that death penalties imposed pursuant to that system of capital punishment are in violation of the "cruel and unusual punishment" clause found in the Eighth Amendment of the Constitution. The Court decided that our present system of capital punishment "permits results that are too arbitrary and capricious to be constitutionally tolerable." Those sentenced to death seemed as if they were chosen at random; there was no discernable reason why some were sentenced to death and some were not (White 2).

The *Furman* ruling had the immediate effect of invalidating nearly all the then-existing death penalty statutes, but it failed to rule whether capital punishment itself was unconstitutional. In response to this decision, thirty-five state legislatures passed new capital punishment statutes,

changing them just enough so that they were able to be unaffected by the Furman decision. Although these statutes resulted in many new death sentences, the constitutional legitimacy of capital punishment remained undetermined for four years (White 2-3).

As of 1972, ten states had officially abolished imposition of the death penalty. Forty states still retained some form of the death penalty in their statutes, three of which had severely limited its application, and nine others had repealed capital punishment, but, following a trial period, restored it to the laws. Roughly 600 prisoners were held in death row quarters under death sentences, some of which had remained there for ten years or more (Wilkinson 193). It was hoped by its advocates that the Furman v. Georgia decision would signal not only the end of the death penalty but also the beginning of an era in which a new respect for the sanctity of human life would infuse our efforts to develop a civilized and responsible system of justice (White 27). Unfortunately, this was not the case.

In 1976 another case was brought (and fought) all the way to the Supreme Court. In the case Gregg v. Georgia, the Court upheld the constitutionality of capital punishment, reversing the decision rendered in the Furman case. State after state now began setting execution dates for many of the hundreds of convicts who had been sentenced to death. The first to be executed, on January 17, 1977, was Gary Gilmore, in the state of Utah. In fact, he was the first person to die by court order in the United States in almost ten years. The number of prisoners

executed has since that time increased steadily, especially during the first half of the 1980s (Wrightsmen 357).

A clarification needs to be made regarding those crimes that are said to "deserve" the death penalty and those crimes that are not seen as heinous enough to justify the most final of all punishments, namely death. Although there is considerable variation in the lists of crimes for which death is prescribed, in general the chief capital crimes, always subject to the option of jury or judge, are first degree murder, treason (against either state or nation), kidnapping, and rape (Wilkinson 194-195).

The issue of capital punishment has, in extensive arguments and discussions still continuing, lost the dimension of morality, which is what should be the central focus of this problem. The arguments focus on technicalities of wording and interpretation of laws, statutes, and other verbal declaration. Hugo Adam Bedau, an expert and author on capital punishment, believes that "these great moral issues can still be brought to bear in shaping the legal technicalities of current and future criticism of capital punishment" (White 7-8).

III. STATISTICS

The number of inmates on death row awaiting execution in 1980 was roughly 700, a figure which has steadily increased in a linear fashion to the present day. In 1982 there were about 1000 inmates (Van den Haag/Conrad 14), in 1985 there were 1500, and in April 1990 over 2200 (Lacayo 19). An average of 250 people have

been sentenced to death each year since 1976 (Baker-Shenk 12). Many of the men who are presently on death row do not understand fully what they were really doing when they committed the capital offense. One survey concluded that at least 250 of the convicts on death row have an IQ of under 70, the threshold of mild mental retardation. Many times this fact is ignored or failed to be discovered in time to issue a plea for mercy ("State's Revenge" 26).

From 1973 until early 1987, 66 death row prisoners had been executed. Another 18 committed suicide, while 47 more received sentence commutations, and 23 died of natural causes or were murdered by someone other than the state (Baker-Shenk 12). A yearly breakdown of the number of capital offenders executed since 1980 shows these results. There were no executions in 1980, 1 in 1981, 2 in 1982, 5 in 1983, 21 in 1984, 18 each in the years 1985 and 1986, a high of 25 in 1987, 11 in 1988, and 16 in 1989 (Lacayo 19). Since 1900 there has been a total of over five thousand people executed in the United States (Dear 28).

IV. CAPITAL PUNISHMENT: THE DEBATE

Support of Capital Punishment

In 1985 a Gallup poll showed that 72 percent of those questioned favored the death penalty for those convicted of murder; in 1966 this figure was only 42 percent ("Death Penalty: An Attack on its Life" 30). Polls in early March 1987 showed that the percentage of Americans supporting the death penalty had

risen to 77 percent (Kramer 16). A 1986 Gallup poll discovered that 70 percent of those questioned favored the death penalty, even though a majority conceded that it might not deter murderers ("Not the Last Execution" 26). Conversely, in a USA Today poll taken in mid-1984, this question was asked: "Does the death penalty deter crime?" Among respondents, 68 percent said yes, 18 percent said no, 10 percent were not sure, and 4 percent had no opinion (Wrightsman 358).

Capital Punishment as a Deterrent. In short the numbers above show that taken as a whole, Americans favor the death penalty by a margin of at least three to one. There are a number of reasons for this support, the first being that the death penalty is believed to act as a deterrent. Proponents of the death penalty realize that the "correct" severity of the death penalty is very difficult to attain, but that it must be found (or at least diligently searched for). A penalization that is so tolerant and halfhearted as to amount virtually to an act of forgiveness, can scarcely be conceded as having any deterrent value. On the other hand, a system that is so vicious as to take no account of moral restraint, will in the end almost certainly fail of its purpose (Cohen 47).

Proponents of this reason for the retention of capital punishment often cite two complex statistical studies to defend their viewpoint. The first study was conducted by economist Isaac Ehrlich in 1974 at the University of Chicago. He estimated that every execution saves the lives of about eight people by

detering other killers. A second study, published in 1985 by University of North Carolina economist Stephen Layson, concluded that this number appears to be 18 lives saved (Austen/Kimko 18). The difficulty in evaluating how effective capital punishment is as a deterrent is exemplified in a report in 1953 by the Royal Commission on Capital Punishment, which was appointed by the United Kingdom to examine the question of the deterrent value of the death penalty. They simply stated that "we can number its failures, but we cannot number its successes" (Cohen 50).

Kent Perry, a detective for nine years, believes that capital punishment does work as a deterrent. He states that "if nothing else, the recipient of the sanction is irrevocably deterred from ever repeating his crime." Moreover, we do not know the number of people who have been dissuaded from a specific act based on a fear of being executed because people are reluctant to share these feelings. He feels that whether or not the death penalty works as a deterrent, it should be imposed because "the condemned party deserves it" (Perry 7). This leads well into the second main reason for the support of capital punishment: the belief that murderers should get what they deserve--death.

Capital Punishment as Retribution. Some of the reasons given by retributivists for the purpose of punishment are as follows: punishment annuls crime; it gives criminals their "just deserts"; wrongdoers deserve to suffer; the act is unfair to the victims; punishment gives satisfactions; and the belief that the

offender has shown unfairness to law-abiding citizens because of the criminal act. Although these reasons sound very logical and reasonable, it should be also noted, though, that each of these reasons does have its flaws (Ten 38-65).

Among the proponents of the death penalty, there is a general feeling or belief that we should keep the death penalty available for use simply because some people as a result of their actions deserve to be killed. They believe that death is the only just and "correct" way to punish them. Edgar Hoover, former director of the FBI, writes that "the savagely mutilated bodies and mentally ravaged victims of murderers, rapists, and other criminal beasts beg considerations when the evidence is weighed on both sides of the scales of justice" (Wilkinson 198-199). To those who wish to abolish the death penalty, James V. Bennett, a highly respected authority in the field of capital punishment, stated his view:

The use of the death penalty will continue to decline. But it should remain on the books. Shrink as we might from putting a human being to death, there are some crimes for which there seems to be no other penalty: acts of high treason, for example; blowing up a loaded passenger plane in flight; kidnapping and killing a child (Wilkinson 200).

Here are two examples of crimes that seem to fit Bennett's requirements. The first involves Robert Alton Harris, who, because of the brutality of his crime, has become a definite plus in the argument in favor of the death penalty. Here is his story:

On July 5, 1978, just six months after he completed a two-and-a-half year prison term for beating a man to

death, Harris and his brother Danny decided to rob a bank in San Diego. Looking first for a getaway car, they spotted two teenage boys parked at a fast food restaurant. Harris forced the youths to drive to a nearby reservoir, where he shot and killed them. Later, he calmly finished their uneaten hamburgers. Now he is very close to becoming the first inmate in 23 years to be executed at San Quentin (Lacayo 18).

Also consider the following brief summaries of three grotesque and unwarranted crimes.

A Texas man was convicted of brutally raping and murdering a young housewife. A gash was found in her stomach, and there were allegations that he had inserted his penis into the wound. A second case involves a Georgia convict who had killed his homosexual lover by jamming a screwdriver into his ear, then twisting it. He tried to rid himself of the body by dismembering it and flushing it down the garbage disposal. A third crime involves two young Georgians who robbed a cabdriver. They stripped the driver at knifepoint and put him in the trunk, laughed as he pleaded for mercy, and drove the car into a pond. There was no reason for the killing, no premeditated plan, but simply the desire for evil (Sloan 20).

These few cases alone could cause one to lean towards support of capital punishment. There are many more cases, some much more brutal, which help form a rather strong foundation on which the supporters of the death penalty are able to stand firmly. In his book entitled Punishment and Desert, retributivist John Kleinig writes that "the principle that wrongdoers deserve to suffer seems to accord with our deepest intuitions concerning justice" (Ten 47).

Dr. George Boyd, professor of religion at Trinity University in San Antonio, Texas, sums up this position quite well when he states that

individuals who voluntarily take another's life thereby forfeit any claim on society's respecting their own.

From the standpoint of "deserving," murderers deserve no better fate than their victims (Boyd 163).

Capital Punishment as Preserver of the Values of Society.

The final reason for maintaining capital punishment, and in my opinion the one that builds the most convincing case, is that it helps to preserve society's values. It relies not on anger or on a spontaneous decision, but upon the realization that in order to keep the morals and standards of society in tact, this form of punishment must remain an option. It must be conveyed that the capital punishment debate is not about what murderers deserve, but rather about how society should express and defend its fundamental values (Boyd 162).

Instead of following the example of religion and attempting to hinder acts of revenge, to mitigate or sabotage its effects or to redirect them to secondary objects, our judicial system rationalizes revenge and succeeds in limiting and isolating its effects according to social demands and desires. The system treats the disease without fear of contagion and provides a highly effective technique for the cure and prevention of violence (Girard 22).

Even the classic literature of China explicitly acknowledges the necessary function of sacrificial rites, if one in fact considers the death penalty to be one of these rites. Such practices "pacify the country and make the people settled....It is through the sacrifices that the unity of the people is strengthened" (CH'U YU II, 2). The Book of Rites affirms that sacrificial ceremonies, music, punishments, and laws have one and

the same end: to unite society and establish order (Girard 8). Mayor Ed Koch of New York City has contended that the death penalty "affirms life" because by failing to execute murderers, we "signal a lessened regard for the value of the victim's life." Capital punishment is thus seen as the only means we have of doing justice in response to heinous crimes (Wrightsmen 357-358).

Ambrose Bierce, who has extensively studied the effects of capital punishment, speaks in favor of the death penalty:

Every murder proves that hanging is not altogether deterrent; every hanging is somewhat deterrent--it deters the person who is hanged. A man's first murder is his own, his second is ours... Whatever an individual may rightly do to protect himself, society may rightly do to protect him, for he is a part of itself. If he may rightly take life in defending himself, society may rightly take life in defending him (Wilkinson 198).

As technology changes with the years, the values and morals of society also change. Some proponents of capital punishment contend that when one has committed a capital offense and is executed, he is receiving his "just deserts." But we need to remember that the appropriate "just deserts" depends heavily upon the contemporary scale of values. For example, in the mid-18th century, highwaymen (robbers) were seen as deserving of death; in the early 19th century, Americans believed all murderers ought to die; today, it appears that most Americans believe that the most heinous murderers deserve to die, but our system does not adequately carry this out because only a handful of these are actually executed. Are we implicitly stating then that even

those guilty of the most heinous of murders are not deserving of the punishment of death?! (White 16-17)

Opposition to Capital Punishment

As much support for the death penalty as there appears to be, I believe there is even more opposition to the legal, authorized killing of fellow humans. More articles are written and more evidence is found that speaks of the shortcomings and problems with this form of punishment. Because of the impossibility of examining all the reasons, the five main reasons for the opposition to the death penalty will be discussed.

Capital Punishment is Not an Effective Deterrent. Contrary to that stated earlier, a great deal of evidence has been found that seems to prove that the deterrent effect of capital punishment is doubtful. A member of the Canadian House of Commons, to illustrate his point that the death penalty serves no purpose, even as a deterrent, mentioned the assassination of John F. Kennedy by Lee Harvey Oswald on November 22, 1963. He stated that "three presidents of the United States had been assassinated before Kennedy was shot down in Dallas. All their assassins died....This did not deter Oswald" (Cohen 17).

Welsh S. White, in his book entitled Life in the Balance, feels that the death penalty pertains to such a small percentage of criminals that the whole idea is almost worthless. He writes:

The fraction of all convicted offenders sentenced to death each year and then executed is so tiny that it effectively destroys any possible deterrent and retributive benefits the defenders of capital punishment might point to....For the tens of thousands

of other offenders who are arrested and convicted each year, punishment will typically be imprisonment and eventual release. The death penalty will be entirely irrelevant to them and to the day-to-day workings of the criminal justice system (White V).

Both proponents and opponents of capital punishment understand that the death penalty will be most effectively used as a deterrent if "the individual potentially subject to it believes that it will be swiftly and certainly imposed." This is where the problem occurs. Since the Gregg decision of 1976, any informed defendant realizes that even if he were to be sentenced to death for a capital offense, his chances of actually being executed for that offense would be relatively slight. Under these circumstances, it seems quite clear that the threat of death does not serve as a more effective deterrent than does life imprisonment (Cohen 16).

To illustrate this, we return to the Canadian situation in the 19th century. Canada's early lawmakers believed that the sight of a criminal's death struggles would deter others from crime, which is why they allowed the hangings in the 1800s to be public gatherings. But the crime rate continued to grow in step with the population. Executions appeared to be the most popular social gathering; for example, in 1928 a double hanging in the city of Toronto, with a population of only 2000, drew 10,000 spectators (Barrett 18). This proves the fact that humans "enjoy" bad news, to the extent of watching the death of a fellow human. Watching the execution of an inmate can lessen the psychological effects of the brutality of the crime, and in time

the person can become emotionally numbed to this situation. All this can lead to future violent behavior of the spectator.

Violence Begets Violence. President George Bush yearns for a "kinder, gentler nation." Bruce Berner, professor at the Virginia University School of Law believes that this may be feasible, but not for the reason one would expect or hope for. He feels Bush's wish may come true, possibly because to become kinder and gentler is the only direction left open. He believes we have "hit near-bottom in mindless, punitive reaction to crime" (Berner 26). The United States calls itself a highly civilized country, yet we are one of only a handful of large nations, including South Africa, the Soviet Union, the People's Republic of China, and Iran, who still use the death penalty (Baker-Shenk 11).

Many of those in favor of capital punishment for murder use the principle of *lex talionis* to justify their reasons: an eye for an eye, a tooth for a tooth, a life for a life. What is deemed just is that the punishment should inflict on the offender what he has done to his victim. After even slight examination the defects of this principle become obvious. First, it cannot be applied to many crimes, such as rape, forgery, or blackmail; it therefore seems that the single murder is one of the few cases where the *lex talionis* can be directly applied. Second, this principle assumes that the life taken away by the murderer is no greater or lesser in quality (or in any other characteristic) than the murderer's life itself. Third, the *lex talionis* gives

no consideration to the purpose of the killing, counting the most polar forms of murder--i.e., mercy-killing or the most sadistic form of murder--as deserving of exactly the same punishment: death. Finally, even if the first three problems are solved, inflicting the same torture and punishment that the murderer inflicted on his victim is sometimes ethically not plausible, as in sadistic murders or when the murderer subjects his victim to the most horrible torture (Ten 150-152).

Nobel laureate Andrei Sakharov strongly opposed the death penalty. He was unwavering in his position when he stated:

I regard the death penalty as a savage and immoral institution that undermines the moral and legal foundations of a society. I reject the notion that the death penalty has any essential deterrent effect on potential offenders. I am convinced that the contrary is true--that savagery begets only savagery (Drinan 200).

John Dear, author of Disarming the Heart: Toward a Vow of Nonviolence, also realizes the immense problem in our society caused by the death penalty, referring to it as a sickness instead of as savagery. Dear writes:

Capital punishment is a sign of a deep sickness in our culture. Our culture is addicted to violence and is desperately ill. The plagues of abortion, war, racism, sexism, consumerism, apartheid, torture, and nuclear weapons are all signs of that illness in the world. The death penalty, like these other signs of society gone awry, is immoral, evil, unethical, and un-Christian (Dear 30).

Although these two views reflect differing temperaments, they both expose the fact that the death penalty solves no problems in today's society, but only serves to create more.

The philosopher Hegel claimed that punishment "annuls" the

crime, but this claim has been dismissed by critics because "no act of punishment which is inflicted after the crime has already been committed can annul it." The past cannot be changed; what has happened is already history. The murder has taken place; if the murderer is killed for this act, the result is two dead people, as compared with no deaths before the crime. Punishment cannot restore the situation to what it was, and therefore cannot cancel out the crime (Ten 38). Thus, the death penalty seems to serve no function because the victim's life cannot be restored, so there seems to be no purpose in the killing of one more person.

Capital Punishment Kills the Innocent. William H. Baker, who is an expert on capital punishment, poses this question: Which is the greater loss--never carrying out justice by never putting malicious murderers to death, or putting an innocent person to death in a rare instance? He acknowledges that execution of the innocent has happened before, but that these instances are very rare. Baker believes that the innocent executions are not numerous enough to deter use of the death penalty and thus capital punishment should still be used (Baker 21). According to the Stanford Law Review, at least 23 innocent people have been executed since 1900 ("Not the Last Execution" 26). I agree with Baker that this is a low number, but if one thinks about each person individually and about the grief and hardship caused his family and friends, this number takes on a much greater significance.

It needs to be realized that as often as guilty parties go free through a technicality or some other minor reason, the reverse also occurs: that innocent parties are found guilty and, in capital offenses, sometimes are executed. Society can never forgive itself for killing an innocent person, nor can it reverse the years of pain and humiliation spent in prison or restore the lost years of freedom. Society only needs to rid itself of this one form of punishment to insure that it will never again take an innocent life and regret it later (Boyd 164).

In correlation with this, Supreme Court Justice Byron White had this to say:

Any system run by humans will result in mistakes. No matter how effective the death penalty may be as a punishment, government, created and run as it is by humans, is inevitably incompetent to administer it. This cannot be accepted as a proposition of constitutional law. Imposition of the death penalty is an awesome responsibility for any system of justice and those who participate in it (Van Ness 27).

In other words, humans are fallible and mistakes will always be with us; that is part of our human nature. We are not able to carry out God's will without making many mistakes.

Judicial System is Too Costly. There are two main ways the judicial system is very costly. The first is that the procedures needed to carry out the death sentence of a capital offender are financially very burdensome to the taxpayers. Cohen believes that "to hang a man or to electrocute him entails less of a financial burden on the taxpayer than to board him as a prisoner even for a few years, let alone for the remainder of his lifetime" (Cohen 18). This belief is a gross misconception. For

example, Billy Neal Moore, sentenced to death fifteen years ago, explains:

Since I've been on death row, the government has spent more than one million dollars preparing for my death. If I had just a fraction of that money originally, I wouldn't be here. That's what I was looking for when I was young (Dear 30).

Fred Bruning, a writer for Newsday in New York, says that "capital punishment ironically serves to focus attention on the murderer instead of the victim and, owing to high legal costs, drains considerable resources that might otherwise be used to assist grieving families" (Bruning 13).

The second way in which the judicial system is too costly is even worse than the first; whereas the first dealt primarily with the tangible aspect of money, the second deals more directly with life, a precious and non-restorable intangible commodity. Some lawyers argue that capital punishment is unconstitutional in that it breaches the Eighth article of the Bill of Rights which prohibits "cruel and unusual" punishment. But if there is anything "cruel and unusual" about the procedure, it is dragging out executions because of postponements, appeals, and commutations (Wilkinson 195). Because of the lengthy, complicated appeals process, the average delay between conviction for a capital crime and execution is more than seven years (Lacayo 20).

A defendant who is executed against his will does not merely suffer the penalty of death, but as White states, he must endure much more than his legal punishment:

As a general rule, a man is undone by waiting for capital punishment well before he dies. Two deaths are inflicted on him, the first being worse than the second, whereas he killed but once. He suffers that penalty after lingering on death row for years, enduring the physical restraints and psychological debilitation that pertain to that type of confinement, the mounting anguish of uncertainty about whether his death sentence will be carried out, and, finally, the terrible realization that he is one of the unlucky few who will actually be executed (White 17).

The death penalty is a slow form of torture, the killing of one human being by another human being--and by the entire society. Even if we have not physically killed someone, we are guilty of participating in and supporting a system that has murdered thousands of people in more than one hundred wars during this century alone (Dear 30). In the United States in particular, although the general public blames capital punishment on the state governments and the courts, it is at least as much the fault of the people, whose "widespread public clamor" brought the reinstatement of the death penalty only four years after its abolition (Gould 63). We are all accomplices of the state in taking a life because the state acts "in our name, at our behest, with our acquiescence." That makes the death penalty the most gruesome form of homicide ("Murder Most Foul" 10).

In addition, those who call ourselves Christians realize that life is a divine gift from above. Therefore, the Creator alone, and not the courts or the state, should have the privilege to deprive anyone of it. Such being the case, the question arises whether the state even has the right to impose a lesser punishment, such as imprisonment. Since the murderer will

eventually meet with Divine justice, is it proper that he should be penalized twice for the same offense? (Cohen 37-38) As stated by the Catholic bishops in Canada at a national convention, "Life is sacred, a gift from God, and no one has the right to mutilate or destroy it" (Sinclair-Faulkner 400).

Capital Punishment Does Not Respect the Sanctity of Life.

The difficulty of the existence and administration of the death penalty comes in that we have the right to expect that our government provide us with safety and protection; yet we need to demonstrate a respect for the sanctity of human life. We need to determine whether capital punishment achieves the "social good" that was originally intended (Wrightsmen 358).

The state is inevitably a teacher, and in the area of capital punishment it teaches vengeance and hatred when it carries out the death penalty. We are taught that murderers are not to be loved, nor can their acts be forgotten or forgiven. But in allowing them to live, the state can remind all citizens that no man is always and only a murderer (Van den Haag/Conrad 10). Bernard Lande Cohen elaborates on this thought in his book entitled Law Without Order: Capital Punishment and the Liberals,

Murder to the average well-adjusted man is a repugnant, unnatural act. And yet each year hundreds of average men whose minds have temporarily veered from the norm find themselves accused of first degree murder. There are many reasons why an ordinarily law-abiding and decent citizen will suddenly commit an act of violence, and act which has no relationship to his normal intent and which is a negation of every decent impulse and instinct in his character (Cohen 208).

George Boyd, professor of religion at Trinity University in

San Antonio, Texas, expands upon the idea that allowing a capital offender to live can demonstrate to others the importance placed on each person's life. He writes:

The most fundamental argument for discontinuing the death penalty is that society can best express the seriousness of its commitment to the sanctity of human life by abstaining from it, despite having justifiable cause. To respect human life precisely where its bearer has forfeited personal claim to that respect would be society's ultimate statement both of the sanctity of life and of the kind of society it wants to be (Boyd 163).

Those who oppose the death penalty see this form of "final" punishment as morally wrong, as well as having many problems in its administration. They believe that the true murderer is not the individual who has committed the murder; it is the death penalty. It "sits patiently, with its sardonic grin, waiting to touch you directly or indirectly through a family member or a loved one. No, the murderer did not die; the murderer lives" (Johnson 25).

As I have researched the opposing viewpoints regarding capital punishment and assembled the arguments of each, I have found myself wavering between the two polarities. I recognize the merits of each side and agree briefly with each view. Although the view supporting capital punishment has been very informative to me, and even somewhat persuasive, I tend to side with the view opposing the death penalty. As convincing as each argument in favor of the death penalty is, upon looking a little harder, I can find research that is even more convincing that refutes that same argument (as well as some arguments against

capital punishment that the opposing would have a very difficult time defending, i.e., that capital punishment kills the innocent). Take for example, the argument that states that capital punishment is beneficial for retributive purposes. Researching a little deeper, I can find plenty of studies that posit that violence only causes more violence and that when we get too involved in this system, we lose the belief in the sanctity of life. After experiencing the deaths of some people who were close to me, I realize the "specialness" of life and cannot agree with the killing of even repulsive murderers. I also realize that only by the grace of God will I be able to forgive those who kill others.

V. CAPITAL PUNISHMENT AND DISCRIMINATION

There are many types of discrimination in the application of the death penalty. The three that will be touched upon here are political discrimination, discrimination against the poor, and racial discrimination.

Political Discrimination

Rather than equality in regards to the death penalty, discretion seems to be the operating value. Concern has been expressed about the vast discretionary powers available to sentencers with the resulting disparities in the punishments imposed on similar offenders who have committed very similar offenses (Ten 160). But the problem is that discretion has "run amok, as the death penalty is administered in only a minority of eligible cases, and its determinants seem inconsistent and

unpredictable" (Wrightsmen 358).

In addition, a large part of the reason for the 1972 Furman ruling by the Supreme Court was that the jury-discretionary system was too arbitrary and thus not systematic or guideline-based enough. They stated it was even possible to "produce a rare, arbitrary, freakish, and discriminatory application of the death penalty." Much of the power has now shifted, especially in capital cases, to the prosecutor, with his discretion to determine what charges to bring and in accepting pleas of guilty to lesser-included charges. But he is not the only one with power. The executive has always played a large role in capital punishment. The jury--even under a mandatory system--has great discretion due to its power to convict a defendant of a lesser-included non-capital offense. Further, both trial and appellate judges have at their disposal various discretionary techniques that may cause a capital sentence to be avoided (White 24-25).

In a Supreme Court decision rendered in May 1986, the issue of the death penalty became even more unfair for those on trial for a capital offense. The Court ruled that courts may exclude opponents of the death penalty from juries in murder trials. Since that time the number of executives has increased annually, from only 68 deaths in the years 1976 to 1986 (an average of 6.8 deaths per year) to 49 from 1987 to 1989 (an average of over 16 deaths per year) (Kramer 16).

Discrimination Against the Poor

In a capital offense trial, the most important aspect

(possibly even more important than if one is in fact guilty or not) is to be able to afford a high quality lawyer. No rich person is executed in America. The majority of those who receive the death penalty are dirt poor. A person sentenced to death is entitled to a state-appointed lawyer or public defender who is often inexperienced and lacks any true zeal for the job. Furthermore, the number of people awaiting execution overburdens the stretched resources; therefore, lawyers are sometimes rushed in at the last moment and are seldom prepared ("Death Penalty: Cruel and Unusual Punishment" 25).

Because of this obvious judicial discrimination against the poor, this is one of the grounds often presented to urge the abolition of the death penalty. The judicial system must be wary, however, because in the absence of other circumstances, this should not be the sole reason for more leniency to the poor than to the non-poor. It is too easy to recognize that the role of wealth and social position does help one's plight and that it is a steep uphill battle to convict, of any crime at all, a prominent or rich member of the community. Because the legal system at its root is people, money can in effect become another advantage for those who possess it, as it can increase the number of lawyers working for them, as well as the number of appeals, motions, and objections. Because money works for those who possess it, simultaneously it works against the poor and is another form of discrimination in our inept judicial system (Cohen 7).

Racial Discrimination

This is the most obvious and harshest form of discrimination found in administration of capital punishment today. A convicted murderer in America is more likely to be executed if he is poor, lives in the South, and has killed a white person. The recognition of racial prejudice was part of the reason for the 1972 suspension of the death penalty, especially evidence that the people most likely to be sentenced to death were blacks who killed whites. This sharply conflicts with the 14th amendment, which promises everybody equal protection under the law ("Death Penalty: Cruel and Unusual Punishment" 24-25).

A study by Professor David Baldus of Iowa University discovered that in Georgia in the 1970s, the convicted murderer (black or white) of a white man was eleven times more likely to receive the death sentence than someone who had killed a black ("Death Penalty: Cruel and Unusual Punishment" 24-25). Also, even though the number of victims in intentional homicide cases is roughly the same for whites and for blacks, the chances of going to death row are much greater for those who kill whites than those who kill blacks (Wrightsmen 358). As implied in these statistics, the race of the victim is still decisive in the verdict of guilt as well as of sentencing: in nearly 90 percent of the executions of the past decade, the offender's victim was white (Bedau 45). Another source states that since 1976, not a single white killer has been sentenced to death for the murder of any black victim, while 33 blacks have been executed for killing

whites. This is in spite of the fact that the racial breakdown of those currently awaiting their execution is 52 percent white, 40 percent black, and 8 percent of other races (Lacayo 19-20).

The degree of racial discrimination in the administration of the death penalty is most easily noticed when geographically examining the pattern of executions across the United States. For example, Texas, Georgia, Florida, and Louisiana have accounted for more than half of all executions since the death penalty was brought back in 1976. Another source states that two-thirds of all executions have occurred in the first three states alone) ("Death Penalty: Cruel and Unusual Punishment" 24).

To further prove this point, in Alabama blacks constitute approximately 64 percent of those on death row, yet they make up only 24 percent of the state's population. Similarly, 497 (or 90 percent) of the 533 people executed in the history of the United States for rape were black, even though blacks make up less than twelve percent of the population (Drinan 582). Also, in 1968 it was shown that throughout the South, no male--black or white--had been sentenced to death for the rape of a black female, and that the vast majority of death sentences for rape went to blacks convicted of raping whites (Bedau 47). Therefore it appears that who dies and who waits has more to do with a case's location and the race of both the victim and the offender than its merits and the actual facts within the case (Begley 64).

A couple of rather well-known court cases will help to illustrate this problem of bias in our court system. Possibly

the best example is the case of McClesky v. Kemp. In an extensive gathering of social science evidence, Legal Defense Fund lawyers were able to show the powerful predictive character of race in determining the sentencing outcome in a capital case. Warren McClesky, a black man found guilty of killing a white woman, was sentenced to the death penalty. It was obvious to those familiar with the case that he was sentenced to death because of the race of the two individuals involved; an appeal was brought forth. The Supreme Court ruled that there was no bias in sentencing McClesky to death, but that he was sentenced mainly because he had failed to try to prove that he had been the object of intentional racial discrimination (Bedau 48-49).

A case showing even more prejudice in our judicial system involves Clarence Lee Brandley, a 35-year-old black man convicted and sentenced to death for the murder of a 16-year-old white girl. Evidence suggesting that someone else, probably a white, had committed the murder was either "lost" or disregarded. This murder occurred in 1980 in East Texas, an area that is predominantly white and where blacks are distrusted. More evidence is continuing to turn up that seemingly exonerates Brandley, but as of May 1987, he still is waiting on death row ("On Death Row in Texas" 24).

Hans Zeisel, who has spent years researching capital punishment and racism, especially in the state of Florida, concludes that "there is simply no way to ensure the evenhanded administration of the death penalty. That alone should be

sufficient reason for its abolition" (Berger 53-54). Obviously the greatest power of "justice" in this country, the Supreme Court, does not share this sentiment. Early in 1987 they rejected the last constitutional argument against the death penalty, an argument which stated that it was unacceptable because it was applied unfairly, with blacks more likely to be executed than whites ("State's Revenge" 26). It seems quite clear that the death penalty will continue to be administered unfairly, especially to those of African ancestry, who live in the American South, until we take a stand against this injustice.

VI. BIBLICAL POSITIONS ON CAPITAL PUNISHMENT

Support of Capital Punishment

To many when the word "bible" is mentioned, they think only of the Christian Holy Book, and more specifically, the teachings of Jesus Christ, "loving thy neighbor," and so forth. What they fail to realize is that the Bible also has much to say about justice, especially as it pertains to capital punishment. To support their position, proponents of the death penalty cite a number of verses from the Old Testament. Carl F. H. Henry, at the 1987 convention of the National Association of Evangelicals, argued that while modern states are not required to use the death penalty, Scripture presents at least a moral imperative for the execution of deliberate murderers (Van Ness 24). Numbers 35:31 illustrates this view very well, as it states "Moreover you shall accept no ransom for the life of a murderer, who is guilty of death; but he shall be put to death" (RSV). Note that in this

verse God does not allow for any type of forgiveness or mercy.

Scripture does have much to say about the death penalty, and even provides direction concerning how it was to be implemented. The Old Testament Law lists 18 crimes for which the offender could "rightfully" in God's judgment be put to death. Some of the crimes included in this list are kidnapping, Sabbath desecration, homosexuality, unchastity, and rape of a betrothed virgin (Boston 177). But it is the relative silence of the New Testament, together with the redemptive work and forgiving nature of Christ, that has led some Christians to question whether the death penalty should be used at all today (Van Ness 24).

It is taught in Scripture that just and swift punishment deters crime. Ecclesiastes 8:11 reads, "Because sentence against an evil work is not executed speedily, therefore the heart of the sons of men is fully set in them to do evil" (Baker 20). In other words, for the punishment to have the most effect, the penalty of death must be carried out very soon after the capital offense has been committed. Considering the criminal justice system in the United States and the immense amount of delays, it becomes quite clear why our system is very ineffective. In addition, the apostle Paul in his book to the Romans (13:4) refers to the magistrate as not bearing the sword in vain. This is a clear reference to government's power to take life as part of its vengeance on evildoers (Baker 21). But if the actions taken by government only affect the offender and are likely to have no deterrent effect, what is the purpose of taking action in

the first place?

In defense of the death penalty, the Reverend Jacob J. Vallenga, a leading Presbyterian minister, answers the Sixth (Fifth) Commandment objection by pointing out that the commentary following this commandment in the 21st chapter of Exodus states that "whoever strikes a man so that he dies shall be put to death. If a man willfully attacks another to kill him treacherously, you shall take him from my altar that he may die." Thus, Vallenga asserts that capital punishment is no more than taking the appropriate action to give meaning to the commandment "Thou shalt not kill" (Wilkinson 197).

The citing of a another passage will help in seeing the extent to which the issue of capital punishment is mentioned in the Bible. Deuteronomy 13:1-11 states that if a false prophet arises and teaches the people of God to follow gods other than the true and just God, that prophet "shall be put to death, because he has taught rebellion against the LORD your God." As is made very clear in the passages cited here, God is a just God and requires justice of his creatures, both in this life and the one to come.

Opposition to Capital Punishment

Even though supporters of the death penalty may place a great deal of importance upon the Old Testament literature to support their position, we must realize that the presence of God's Son in this world nearly 2000 years ago should have a profound effect upon the manner in which we treat those who have

committed capital offenses. Cohen writes:

We should give equal, if not prior, consideration to the teaching of the New Testament rather than conform to the Old Testament. If Christ's admonition to turn the other cheek (Matthew 5:38-43) has any real meaning, it categorically rejects the barbaric practice of retribution (Cohen 42).

Although the lex talionis is used by those who support the death penalty, in the Sermon on the Mount Jesus rejects this principle for dealing with offenders of certain crimes. The lex talionis was written into the Hebrew Scripture (which is what the Christians call the Old Testament). Therefore, Jesus Christ Himself, the Cornerstone of the Christian church, rejects the principle of retaliation as a form of punishment. Jesus says:

"You have heard that it was said, 'An eye for an eye and a tooth for a tooth.' But I say to you, Do not resist one who is evil. But if any one strikes you on the right cheek, turn to him the other also; and if any one would sue you and take your coat, let him have your cloak as well; and if any one forces you to go one mile, go with him two miles. Give to him who begs from you, and do not refuse him who would borrow from you. You have heard that it was said, 'You shall love your neighbor and hate your enemy.' But I say to you, Love your enemies and pray for those who persecute you" (Matthew 6:38-44).

Caring for our fellow man is one of the basics of the Christian faith. If the New Testament is to be taken seriously, one cannot claim to be a Christian without committing oneself to remembering those on death row, without fearing God, or loving one's neighbor. The book of Hebrews includes ministry to inmates as one of a long list of basic Christian requirements. Jesus makes it a prerequisite for entering the Kingdom of Heaven by excluding some with the words "I was sick and in prison but you

would not take care of me (Matthew 25:43)" (Villa-Vicencio 357).

We must realize that the Word we have been given is a Word of forgiveness and life. We are asked to forgive and offer hospitality to the murderer, as Ananias was asked to accept Saul, who was the murderer of Christians, where he became one of the most energetic disciples for Christ (Acts 9:10-19). It appears that Martin Luther King Jr. relays the view of the majority of Americans when he stated, "Capital punishment is society's final statement that we will not forgive" (Dear 30). Remember that if there had been mandatory death penalty laws in biblical times, David, Cain, and Moses would all have been executed (Van Ness 27).

Jesus gives us an excellent example of how as Christians we are to approach this issue of the death penalty. We refer to the story of the adulteress that is brought to Jesus:

The scribes and the Pharisees brought a woman who had been caught in adultery, and placing her in the midst they said to him, "Teacher, this woman has been caught in the act of adultery. Now in the law Moses commanded us to stone such. What do you say about her?" This they said to test him, that they might have some charge to bring against him. Jesus bent down and wrote with his finger on the ground. And as they continued to ask him, he stood up and said to them, "Let him who is without sin among you be the first to throw a stone at her." And once more he bent down and wrote with his finger on the ground (John 8:3-9, RSV).

As seen here, Jesus not only condemned the death penalty (for in His time it was legal to execute someone for the crime of adultery), but he chastised the ones who posed this question to him, namely the scribes and Pharisees for considering themselves able to pass judgment on others. Jesus' words made them realize

their own sinfulness and filled them with shame. His words should have the same effect on us today (Dear 28).

Role of the Church/Christians

We must take the words found in the Bible and "translate" them into words of action today. Jesus in the Bible calls us to be active Christians, "going forth" to make disciples in all nations (Matthew 28:19). John Dear, author of Disarming the Heart: Toward a Vow of Nonviolence, has very definite feelings about what our Christian convictions should be.

As Christians, we must recognize in every human being the presence of God. The Scripture is explicit about this: God is in each of us. We are the "temples of the living God" (II Corinthians 6:16); we are all children of God, all redeemable. Particularly, Christ comes to us in the distressing guise of the poor, in our enemies, in the unborn, in prisoners. Followers of Jesus are therefore a pro-life people who side with any victim of violence, always resist death, and promote human life for all through steadfast mercy and compassion (Dear 30).

Mario Cuomo, New York governor, is one of the last government officials holding a high office who has boldness enough to speak out against capital punishment. He has vetoed death penalty bills eight times since becoming governor. More detrimental than the legal problems of the death penalty, he believes it "demeans and debases us. The death penalty tells our children that it is okay to meet violence with violence" (Kramer 20).

Christians realize that the lex talionis in fact does not work, but the community of faith is called to surround the survivors of the victims of murder with compassion, and to grant unconditional "permission" to feel rage and to cry out for the

blood of the one who shed blood. In this way, hot wrath is surrounded and qualified by warm compassion. Realizing that the victim-experience contains within it the demand for the death penalty, Morton MacCallum-Paterson, a writer for Touchstone, interprets the response to that demand as a dialectic between the concepts of wrath and mercy. He believes that "mercy absorbs and moves beyond wrath, so that on biblical-theological grounds, the death penalty is wrong" (MacCallum-Paterson 25, 14).

This belief is reflected in the statement on capital punishment by the U.S. Catholic bishops in November 1980. The bishops resolved that the death penalty should be abolished as it contradicts the "belief of the unique worth and dignity of each person from the moment of conception, a creature made in the image and likeness of God" (Sinclair-Faulkner 200). Echoing this is the United Methodist Church's position regarding the death penalty:

We cannot accept retribution or social vengeance as a reason for taking human life. It violates our deepest belief in God as the Creator and the Redeemer of humankind. In this respect, there can be no assertion that human life can be taken humanely by the state. Indeed, in the long run, the use of the death penalty by the state will increase the acceptance of revenge in our society and will give official sanction to a climate of violence (Stewart 10).

Billy Neal Moore, who accepted Christ while sitting on death row, believes that

if churches really knew that the death penalty was adverse to Jesus Christ, then they wouldn't support it. So many Christians accept the salvation and forgiveness of God for themselves, yet for the people on death row there is no forgiveness at all, only death (Dear 29).

The problem with the many beliefs written against capital punishment by the different denominations is that at the "belief stage" is where many churches and believers stop. They are unwilling to risk that "quantum leap" and help others; their beliefs are very seldom put into action. Jesus taught his followers that true discipleship means not only not inflicting the penalty of death on others but risking the death penalty for oneself. We are to love our enemies and all those whom the state condemns to death, offering the healing hand of redemption to everyone, including those the state says can no longer be redeemed (Dear 30). A few Christian attorneys have taken this command by Jesus into their hearts and have begun to represent people who may be guilty, and they have been criticized by fellow Christians for these actions. But they are some of the few that are risking their own lives for the lives of (less desirable) others. Churches should instead encourage such lawyers to take capital cases to insure that the defendants receive fair and effective representation (Van Ness 25).

Another excellent model of a modern-day disciple following the teachings of Christ and putting His words into works is the Reverend Murphy Davis. She has been visiting those condemned on death row for several years, earning her the title "Angel of Death Row." To those who call themselves Christians and believe the inmates on death row ought to be executed, she questions how they can profess the faith of Jesus Christ, when the Bible explicitly states that no person is beyond hope. She reminds

them that God looked for outcasts to be His "spokespeople:" Moses and Paul were murderers and Mary Magdalene was a hooker. She further asserts that some inmates have been on a personal death row all their lives, such as being abused, neglected, or unloved as a child; society gave up on them a long time ago (Chepesiuk 14).

VII. ALTERNATIVES TO CAPITAL PUNISHMENT

It is not enough to simply condemn the efforts by the general public, by government and law enforcement officials, and by everyone else who has tried to develop the best plan for dealing with capital offenders. Further, it is not enough to conclude that a biblical analysis shows that the death penalty is wrong, but it must also be shown what alternatives are right. The faith community can contribute relevant biblical models to the discussion of alternatives, and that is what we must do (MacCallum-Paterson 24).

Life Imprisonment

In early 1987 Tony Anaya, the outgoing governor of New Mexico, put into action his repugnance of the death penalty by commuting the sentences of the five person awaiting "their day" on death row in his state. Anaya stated, "I call for the abolition of the death penalty because it is inhumane, immoral, anti-God, and is incompatible with an enlightened society." He still does believe in the need for and merits of punishment, as his recommendation is to replace the death penalty with life imprisonment without possibility of parole ("Score One for Life"

11). New York Governor Mario Cuomo also favors life imprisonment without parole over the idea of execution. He admits such sentences negate the possibility of rehabilitation, but his main priority is abolishing the death penalty, thus saving the life of a person, although his life is spent in prison (Kramer 20). "Sing Sing" Warden Lewis E. Lawes offers the same alternative, adding that the offender must wait at least 20 years before he may receive good time allowance or commutation of his sentence (Wilkinson 195).

Community Exile or Sanction

It is clear that there is a biblically based theology of punishment which endorses some form of community sanction in response to crime. Grace does not replace the law--it goes beyond the law. The Bible does not oppose the idea of punishment, but it does reject death as punishment. Consider the story of Cain and Abel. God does not kill Cain, but a sanction is laid on him. He is cursed and banished, to which Cain's response is "My punishment is more that I can bear; thou hast driven me from the ground...." (Genesis 4:14). The punishment is not death, but possibly worse. It is the public condemnation that is laid upon a murderer. This form of punishment has some merit; it is therapeutically important for the survivor to utter such a curse, and equally important for the offender to hear it. Such an opportunity to vent rage and to directly hear survivor pain and anguish would represent a very positive step in our judicial process (MacCallum-Paterson 22-23).

Also possible is some form of exile from the community for violent offenders, both as an expression of denunciation and to prevent repeated violence. Our judicial system must realize that prison need not be degrading and dehumanizing. Community life within the prison should be focused on the positive, such as rehabilitation and self-assessment skills training. the length of exile could be determined by the courts of the wider community, who would decide when the denunciatory and preventative purposes of a particular imprisonment have been satisfied. The ultimate purpose of this model is the restoration of the murderer into the community. Survivors must not be forgotten for they also experience emotional, social, and spiritual disruption in their grief; that disruption is a form of exile for them too. Therefore, one of the goals of a biblically sound judicial framework would be the "restoring of the survivor back to emotional, social, and spiritual integrity" (MacCallum-Paterson 23, 25).

VIII. CONCLUSION

Clifford Sloan, who worked as a court clerk for two years and learned about the difficulty of decisions regarding capital crimes and the "loss of humanity" of those who are on death row, has this "advice" to give:

All in all, opinions about the death penalty are intertwined in complex, broad questions of punishment and retribution, of social purpose and societal standards, of mercy and morality." For those vigorously opposed to the death penalty, it is important to understand the full brutality and savagery of the crime involved. For those who support the death

penalty, it is just as important to note that imposition of the death penalty often results from nothing more than poverty and poor lawyering. And for both sides it is most important that the Supreme Court, under the barrage of capital legislation, does not forget the humanity and sanctity of life (Sloan 21).

The effort to abolish the death penalty will be very difficult but we must persevere. It will be very difficult because those wanting abolition are in the small minority. Hugo Adam Bedau sums up well the vastness of this problem when he reminds us that

It took the Civil War to establish the simple proposition that a black man being in this country was something more than another man's chattel. A civil rights movement was needed to extend neglected and misinterpreted constitutional guarantees across state lines and into institutions, private as well as public (Bedau 48).

Cardinal John O'Connor of New York City has pointed out that "every time we deliberately take a human life...we desensitize ourselves to the sacredness, the wonder, the beauty of all human life" (Drinan 582). God has created each one of us because He has a purpose for each person's life; conversely, if there were no purpose for a life, that person would not have been created. Each person is on this earth is unique; there is no one else who is exactly like another. God has created each person with a set of characteristics that is distinct from anyone else on this earth. Each time a person is not allowed to manifest these qualities into society, the society as a whole and each member of it loses something. The death penalty is one of many reasons that a person may not be allowed to share his "specialness" with others. Whereas God gives to each person, the death penalty

simply takes away.

It is important that each person realizes that he/she has been given special and unique gifts by God, to be used in serving Him. It is important that each person realizes that, even though an innocent person's life was taken away, the killing of yet another person solves no problems. It is important that each person realizes that, by some quirk of fate, it could have been him or her (or a close relative) that was one of the 23 innocent people killed by the death penalty in this country since 1900. It is most important to realize that ultimately we will be judged for what we have done to help our fellow brother for Jesus tells us that "as you have done these things unto the least of these my brethren, you have done them unto me." Jesus is telling us that even if you kill the most repulsive of murderers, it is as if we are killing the One who died on the cross for our sins.

I wholeheartedly agree with Dear and his radical position when he states that

We are called to see everyone on death row as Christ present in the world. We are invited to a radical forgiveness and healing, to forgive as God forgives others, to allow others to live. We are called to forgive 70 times seven times, not just those everyday small annoyances that others do to us, but cold-blooded murder as well--even the murder of our loved ones. We are called on to forgive the murderer as Christ forgives the murderer, as Christ forgives us. We are called on to pray for forgiveness for our sins "as we forgive those who have sinned against us (Matthew 6:12)" (Dear 30).

When I began this paper nearly three months ago, I had "conditional support" for the death penalty; in other words, I felt that the legal killing of someone was wrong in the majority

of cases, but that for certain "special circumstances" the death penalty was acceptable (and sometimes even "necessary"). As I continued to research more deeply, I realized that because of the many legal problems of the death penalty, morally I could not support this form of punishment. Furthermore, as I read more in the Bible about what Christ has said about "loving our neighbor," I realized that if I am to call myself a devout Christian, I cannot support the killing of a "brother" or "sister." In the first chapter of the Bible (Genesis 1:26), we are told that man is made in the image of God; therefore, if I participate in any way in the killing of a fellow human being, I am participating in the killing of God. But I am not alone. Everyone who supports the killing of others participates with me. Therefore, we are nailing the spikes into his hands, we are spitting on him and mocking him, we are yelling "Crucify him! Crucify him!"

Nearly 2000 years ago Jesus died on the cross for our sins. He was the divine, yet human, "representative" for all people: those who had already died, those living in His time, and those yet to be born. In the form of a man (and with all the limitations appertaining), He endured our pain and was tortured, and defeated death and the devil, and by his acts gave us eternal life. Our Savior has already taken the pain and the punishment for our sins; because of this our Father grants us forgiveness if we only ask him. Why do we need, then, to kill our fellow man when his punishment has already been taken care of by Jesus? In Revelations 22:12, we are told that our God will repay each

person for what he has done. Will your "payment" be in the form of eternal punishment in hell for what you have ^{done} to your brothers and sisters, or will you be rewarded eternally in heaven for all that you have done for ~~your~~ them?

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