

Diminishing All of Us:

The Death Penalty in Louisiana



A Study for Louisiana Catholics Committed to Repeal of the Death Penalty

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Death Chamber, Louisiana State Penitentiary, Angola
Photo Courtesy of Richard Ross, *Architecture of Authority* (Aperture Press, 2007)

Background to the Study

The Louisiana Catholics Committed to Repeal of the Death Penalty (LCCRDP) was formed in early 2010 through the leadership of Archbishop Gregory Aymond, the Louisiana Conference of Catholic Bishops, and Sister Helen Prejean. This initiative affirms what the U.S. Conference of Catholic Bishops, in its 2005 pastoral letter, *"A Culture of Life and the Death Penalty,"* called "a new moment for reflection and a call to action to end the death penalty." The letter described the death penalty as "unnecessary and unjustified in our time and circumstances." Likewise, it expresses the ongoing commitment of the Louisiana Catholic Bishops to the issue, as articulated in their 2002 pastoral letter *"Let Justice and Mercy Meet: Crime, Punishment and the Common Good in Light of Sacred Scripture and Catholic Teaching."*

Pope Benedict XVI, like his predecessor Blessed Pope John Paul II, is an outspoken critic of the death penalty and regularly appeals for commutation in death sentences. Pope Benedict urges an end to the death penalty worldwide and "encourages the political and legislative initiatives being promoted in a number of countries to end the death penalty."¹

With such strong support from the Roman Catholic Church, the Executive Committee of LCCRDP undertook a strategic planning process in early 2010, under the leadership of Mary Baudouin, Director of Social Justice Ministries of the Jesuit Southern Province. The strategic planning team decided that a comprehensive study of the death penalty in Louisiana would be a critical way to educate all Louisiana citizens about the history and contemporary practice of the death penalty in Louisiana.

Focus of the Present Study

The present study arrives at a historic juncture when the United States is the only Western nation to retain the use of the death penalty. More than two-thirds (2/3rds) of the nations globally have abolished the death penalty. The death penalty is also facing opposition at home in the United States. Executions dropped 12% in 2011 and death sentences remain near historic lows.² The Death Penalty Information Center reports that "In a recent national poll conducted by Lake Research Partners, 61% of U.S. voters chose various alternative sentences over the death penalty as the proper punishment for murder. Only 33% chose the death penalty." Four states have abolished the death penalty in four successive years: New York (2007), New Jersey (2008), New Mexico (2009), and Illinois (2011). In addition, the Governor of Oregon imposed a moratorium on the death penalty in November 2011. Nevertheless, the death penalty is very much alive in many Southern states, including Louisiana.

This study draws on comprehensive social scientific and historical analyses to detail the deep flaws in Louisiana's death penalty system, and how the system absorbs much needed resources that would be far more effective preventing crime and increasing public safety. We observe that the commitment to life, to the prospects of the poor, and to the problems of inequality requires Louisiana's Catholics to reject Louisiana's death penalty system because it is marred beyond repair by racial injustice and the marginalization of those without means, and premised on the promise of retribution rather than the possibility of redemption.

Though this study addresses the death penalty through a Roman Catholic theological lens, we have aimed to demonstrate the ineffectiveness and arbitrariness of our death penalty system as a public policy, including the ways it is unfairly administered across racial, social and economic lines. We have attempted to gather the results of all qualitative and quantitative Louisiana-focused studies related to the administration of the death penalty and document them here in a single collection.

Executive Summary and Major Findings

As a contemporary criminal justice policy, the death penalty in Louisiana is a costly and ineffective commitment to retribution, taking away scarce resources needed for prevention, healing and redemption. Exoneration rates and the disproportionate prosecutions of cases involving white victims belie any claim that the administration of the capital punishment system in Louisiana is rational or fair.

Chapter IV: The Death Penalty in Context

- i. By the late 20th century, all Western nations, with the exception of the United States, had completely abolished the death penalty.
- ii. Louisiana is an exemplary case study for how the modern death penalty in the United States emerged as a “law and order” alternative to the “rough justice” of lynching in the nineteenth and early twentieth century.ⁱⁱⁱ
- iii. Today, Louisiana leads the nation in the percentage of death row inmates who are African-American.^{iv}
- iv. Localized studies within the most aggressive death penalty districts in Louisiana have found that cases involving white victims are disproportionately targeted for the death penalty by our elected district attorneys.

Chapter V: Arbitrary, Inaccurate and Unfair

- i. Per capita, Louisiana has one of the highest wrongful-conviction rates in the country. More people have been exonerated in Louisiana in the last ten years than executed.
- ii. The death penalty is applied in 1% of murder cases, draining resources from the other 99% of murder cases, many of which are unsolved.
- iii. Reforms are needed to better assist murder victims’ family members, including:
 - a. Changes to Louisiana’s Crime Victims Reparation Act to make financial assistance more accessible to murder victims’ families.
 - b. The redirection of resources to address unsolved murders, provide counseling and mental health services to murder victims’ families, improve murder victims’ families’ access to the criminal justice system.
 - c. Promoting sentences that offer finality and surety.
- iv. The death penalty has been reserved not for “the worst of the worst” in our society but rather for the least among us, illustrated by the fact that:
 - a. Louisiana’s death row is overrepresented by individuals with childhood trauma.
 - b. Many individuals on Louisiana’s death row were under 21 when they were arrested.
 - c. Louisiana’s death row is overrepresented by individuals with intellectual disabilities.
 - d. Louisiana’s death row is overrepresented by individuals with mental illness.
- v. When a death sentence is imposed in Louisiana, it does not reflect the moral judgment of the entire community; rather only those who would impose a death sentence. Jurors who follow the teaching of their faith tradition to oppose the use of capital punishment are not allowed to serve on death penalty juries. Death qualification and peremptory strikes lead to the marked underrepresentation of African-Americans on Louisiana capital juries.

Chapter VI: Weighing the Costs: Alternatives to the Death Penalty

- i. A national survey of police chiefs found that they ranked the death penalty as the least effective criminal justice policy to deter violent crime. There remains no reliable statistical evidence that capital punishment in fact deters potential offenders.
- ii. The cost of pursuing the death penalty is infinitely greater than the costs of pursuing a life-without-parole sentence for murder.
- iii. These expenses are often for naught. In the last ten years, 50% of Louisiana’s capital cases have been sent back for a new trial from federal courts.
- iv. Louisiana is ranked as one of the least educated, unhealthiest, and poorest states in the nation.^v

Executive Summary and Major Findings Continued...

- v. In the 2011 session, the Louisiana Legislature approved a state budget that:
 - continues to reduce human services to our most vulnerable populations;
 - further diminishes health care for the elderly, poor, and disabled;
 - undermines public education;
 - increases the cost of a college education for working families; and
 - extends the state's budget crisis into the next fiscal year.^{vi}
- vi. If we want to improve support for victims' families and prevent crime, a better use of our resources than death penalty prosecutions would be to:
 - a. Increase services and assistance for families of murder victims.
 - b. Invest in childhood education.
 - c. Improve and expand prisoner re-entry services.

By redirecting resources currently allocated for death penalty prosecutions, appeals, and the housing of death row inmates in Louisiana to we can: (1) reduce incidences of violent crime, (2) more adequately support those who have lost loved ones to violence, and (3) improve public safety.

Catholic Social Thought and the Death Penalty

Alex Mikulich

The U.S. Catholic Bishops, in their 2005 pastoral letter *A Culture of Life and the Death Penalty*, reaffirm the teaching of Pope John Paul II, of the Roman Catholic magisterium, and of U.S. Catholic Bishops since 1979, that "the death penalty is unnecessary and unjustified in our time and circumstances." Four fundamental points inform their judgment:

- ~ The death penalty violates human dignity especially when—in our contemporary context—it is unnecessary to protect society.
- ~ State-sanctioned death penalty "in our name" diminishes all of us.
- ~ The application of the death penalty is deeply flawed, is irreversibly wrong, highly prone to errors, and biased by race, the quality of legal representation, and location of the crime.
- ~ We know alternatives both to punish criminals and protect society.

In his encyclical *The Gospel of Life*, Pope John Paul II challenged followers of Christ to be "unconditionally pro-life." He reminds us the "dignity of life must never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself, without definitively denying criminals the chance to reform." Since God's love and mercy is unconditional, human beings neither earn nor lose human dignity.

The Catechism of the Catholic Church (CCC) explains "the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against an unjust aggressor. If, however, non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means (#2267). The test of whether the death penalty can be used is not the gravity of the offense, but whether it is absolutely necessary to protect society. The *Catechism* stresses, "the cases in which the execution of the offender is absolute necessity are very rare, if not practically non-existent. (#2267)."

Louisiana Catholic Bishops on the Death Penalty

In *Violence in Our Society: Death is Not the Answer* (1994), the Louisiana Catholic Bishops underscore the teaching of Pope John Paul II to promote a consistent culture of life. While the bishops recognize the anger, fear, and frustration that may lead some people to promote the death penalty in Louisiana, the fact is that the death penalty has neither deterred nor decreased homicides; "violence only begets violence, death begets death."

Louisiana Catholic Bishops on the Death Penalty Continued...

In their more recent pastoral letter addressing the criminal justice system and the death penalty, *Let Justice and Mercy Meet* (2002), the Louisiana bishops stress the biblical message of God's mercy, compassion, and justice. The bishops emphasize *restorative justice*, "the return to right order, effected through the acceptance of responsibility, the assignment of appropriate punishment and the return or restoration of as many as possible to the human community. The appropriate punishment redresses harm done to the victims, their families and the wider society and both rehabilitates offenders and restores them to their families. Hence the title of our national document *Responsibility, Rehabilitation, and Restoration*." Addressing the death penalty in *Let Justice and Mercy Meet*, the Louisiana bishops state:

Restorative justice also calls us to reject capital punishment as an effective and moral means of confronting crime. Death does not restore, heal, or make whole what was lost. Death only causes more death. When the state imposes death as a sentence, a further insensitivity to the loss of life is the result. The death penalty makes it easy to give up on others and neglect the underlying causes, which yield violence and death. As a people of the Gospel of Life, we are called to build a civilization of life and love.

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ⁱVatican City, Catholic News Agency, "Pope Benedict Urges End to Death Penalty," November 30, 2011. Available online at <http://www.catholicnewsagency.com/news/pope-urges-end-to-death-penalty-worldwide/>. Death Penalty Information Center (2010).

ⁱⁱ*The Death Penalty in 2010: Year End Report*, Death Penalty Information Center, Washington DC.

ⁱⁱⁱMichael J. Pfeifer, (2004). *Rough Justice: Lynching and American Society 1874-1947*, University of Illinois Press, Urbana. See also Adam Fairclough (1995). *Race and Democracy: The Civil Rights Struggle in Louisiana*, University of Georgia Press, Athens.

^{iv}*Sourcebook of Criminal Justice Statistics* Online available at <http://www.albany.edu/sourcebook/pdf/t6802011.pdf> [accessed December 1, 2011].

^vMathis, T. (2011). "2011 Legislative Wrap-up: the no-no session", Louisiana Budget Project, Baton Rouge, page 1. Available at: <http://www.labudget.org/lbp/wp-content/uploads/2011/10/2011-Legislative-Wrap-Up-The-No-No-Session.pdf> [accessed 12/3/2011].

^{vi}*Ibid.*, "2011 Legislative Wrap-up".

