

answers to questions that include the following: How do we balance the need to incapacitate truly dangerous individuals with the need to protect human dignity? How can the Christian idea of redemption square with recent studies demonstrating that some criminals may be neurologically incapable of true human sympathy?⁶ What else are we called upon to do once we realize the harm we do to others in our prisons and jails, or the harms suffered by families of crime victims? How do we find the strength to reach out and help heal both groups of our fellow humans? How can we rely so heavily on human institutions to bring us safety and healing?

I do not presume to know whether and how the American majority can turn away from the death penalty. What I do know is that the Church's traditional role has been to help all persons seeking moral guidance on difficult and emotional issues find that guidance, through meaningful discussion and debate. The Church may be one of the few places in our society where honest, yet respectful dialogue between persons with strong opposing viewpoints is still possible. If nothing else, American Moravian churches should take Elizabeth McOwat's article as a call to meaningful dialogue on the death penalty.

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Endnotes

¹ U.S. Dep't of Justice, Office of Justice Programs, Bureau of Justice Statistics, Capital Punishment

Statistics, available at <http://www.ojp.usdoj.gov/bjs/cp.htm>. Since I first reviewed these statistics, New Jersey has repealed the death penalty.

- ² See the discussion of Atkins and Roper at the Death Penalty Info website: <http://www.deathpenaltyinfo.org/article.php?did=1686&scid=64>. Copies of the merits and amicus briefs in *Baze v. Rees* are available at <http://www.abanet.org/publiced/preview/briefs/jan08.shtml#baze>
- ³ See <http://www.galluppoll.com/content/default.aspx?ci=1606>.
- ⁴ See <http://www.galluppoll.com/content/?ci=28243>
- ⁵ (<http://www.amnesty.org>); (<http://www.innocenceproject.org>)
- ⁶ See discussion of neuropsychologist Adrian Raine's work in this area at <http://www.usc.edu/usnews/stories/9861.html>.

Keith Kapp

"Thou shalt not kill."

— Exodus 20:13, King James Version.

"You shall not murder."

— Exodus 20:13, New Revised Standard Version, quoted in the "Liturgy of Grace," *Moravian Book of Worship* (1995), p. 32.

North Carolina Pattern Capital Punishment Instructions based on North Carolina General Statutes §§ 15-189 and 15-194: *The prisoner, (name prisoner), having been convicted of murder in the first degree by unanimous verdict of the Jury duly returned at the term*

of the superior court of (name county), North Carolina, and the Jury having unanimously recommend the punishment of death.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the same (name prisoner) be, and he is hereby sentenced to death and the Sheriff of (name county), North Carolina in whose custody the said defendant now is, shall forthwith deliver said prisoner, (name prisoner), to the Warden of the State’s Penitentiary at Raleigh, North Carolina, and the said Warden shall cause the said prisoner, (name prisoner), to be put to death as by law provided.

May God have mercy on his soul.

The first two quotations are two versions of one of the 10 Commandments — one in archaic language familiar to most American Christians from childhood and the other integrated into the congregational responses of current Moravian liturgy in North America. The differences between the two translations illustrate starkly how people of faith can and do disagree about the “Christian” point of view on the very difficult issue of capital punishment. Sister McOwat eloquently states her view on where to draw the moral and ethical lines on capital punishment.

The third, longer quotation is one used only in the most tragic circumstances. These are the words spoken by judges in North Carolina pronouncing death sentences, and defendants hear them only after:

(1) Law enforcement has determined that probable cause exists to believe that the accused intentionally killed another human being;

(2) The accused has stood trial, defended by at least two attorneys with the duty to represent him (or her) zealously, putting aside personal prejudices;

(3) A jury of 12 North Carolina citizens has determined unanimously beyond a reasonable doubt that the accused committed the crime of first-degree murder;

(4) The jury, in a sentencing hearing separate from the “guilt phase” of the trial, has weighed “aggravating factors,” such as the heinous nature of the crime (e.g., “with the victim being slashed so viciously and repeatedly that in her last moments she was able to see her own intestines”) against “mitigating factors,” such as the brutality of the accused’s upbringing (e.g., the accused was abused or tortured in childhood), and concluded unanimously that the aggravating factors outweigh the mitigating factors such that death is the appropriate sentence; and

(5) The trial judge has reviewed the entire proceeding, has agreed with the jury verdict and has not overturned it.

Only then does the task fall to the judge of invoking God’s mercy on the condemned.

Where is God’s mercy in a capital case? Where is *human* mercy, when a victim has died terribly, a defendant faces the end of hope and loved ones on all sides struggle with grief?

Years ago, I heard the director of prisons in another southern state offer his sincere opinion that many of the condemned do find mercy through faith before their executions, coming

to an understanding of the need to reconcile with God and seek forgiveness. In this warden's understanding, heaven has a place for the condemned as well as for the victim.

Sometimes, mercy emerges from the fact that the last words of the sentence are far from the end of the process of justice, which demands meticulous attention to the possibility of error. Multiple appeals can take years, even decades, with many lawyers, courts and judges reviewing a case. Our governor, at his sole discretion, can and does extend mercy through his absolute power of commutation and pardon, which cannot be overturned by anyone.

North Carolina is one of a majority of states whose citizens, including Moravians, have determined the need to draw an ethical and moral line, by law, that allows and supports this exacting judicial process. Moravian citizens have an obligation to obey the law. We also have the right to advocate change in the law to reflect what we believe to be right, just and humane.

Whether one supports or opposes the death penalty is not, of course, only a question of citizenship. Certainly it is a question of individual moral conviction and the understanding of Christian duty. How can and should North Carolina Moravians express those convictions? Some volunteer in prison ministries. Sister McOwat's work with LifeLines is commendable. Some are lawyers and judges, committed to the integrity of the judicial process. Many of us are — and all of us should

be — active participants in the governance of our state, our nation and our church.

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Rebecca Craver

Thank you, Sister McOwat, for your insightful words and challenge to the North America Moravian Church in regard to the death penalty. I believe that the death penalty has been part of human government for millennia in order to serve as an example and deterrent to murder and other crimes which take away the lives of others. While I believe that we should be held accountable in our societies for actions which demean and take away the lives of our fellow human beings, the death penalty does not serve this purpose. If it was in fact a deterrent then there would be far fewer people on death row this very day. As I read your paper I was in agreement with your arguments against the death penalty and with the facts that you shared to back up your argument. I would like to try and answer the question you posed at the beginning; in hopes of explaining the way one could support the death penalty in the USA.

“I need to understand, as a Moravian, why it is that so many of our Moravian brothers and sisters in the USA feel that the death penalty is both morally and ethically acceptable whereas