

We cannot be excused from action because we do not want to know what is done in our name. We cannot be indifferent to the horror of what is done behind closed doors in our prisons — we have no excuse for not knowing or caring.

This is our common Moravian witness — our common heritage — our common code of practice. This is what we share — in Christ. In the light all that we share, how is it that we differ in these fundamental issues of life and death?

Endnotes

- ¹ Claudia Whitman & Julie Zimmerman, ed. *Frontiers of Justice*, vol. 1, *The Death Penalty* (Biddle Publishing Company 1997).
- ² Gershwon Winkler, “The Murderous Court,” in Claudia Whitman & Julie Zimmerman, ed. *Frontiers of Justice*, vol. 1, *The Death Penalty* (Biddle Publishing Company 1997).

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Responses

Laura Schattschneider

My first impulse when asked to respond to Elizabeth McOwat’s call to Moravian action on the death penalty was to seek out recent death penalty statistics. I discovered the following: “In 2006, 53 persons in 14 States were executed — 24 in Texas; 5 in Ohio; 4 each in Florida, North Carolina, Oklahoma, and Virginia; and 1 each in Indiana, Alabama, Mississippi, South Carolina, Tennessee, California, Montana, and Nevada. Of persons executed in 2006: 32 were white [and] 21 were black. All 53 inmates executed in 2006 were men. Lethal

injection accounted for 52 of the executions and electrocution for one. Thirty-eight States and the Federal government in 2005 had capital statutes.”¹ I also discovered that in 2005, the numbers of persons on death row declined for the fifth year in a row. In that year, there were 1805 white persons (including 362 persons of Hispanic descent) and 1372 black persons on death row, and 77 persons of other and unknown ethnic origins. Fifty-two women were imprisoned on death rows. The youngest person on an American death row was 20 years old.

These statistics track the first measurable decline in American reliance upon the death penalty since the Supreme Court reinstated it in 1976, following a brief hiatus in its use after the Court declared it unconstitutional in 1972. The graphs tracking executions since the 1950s available on the Bureau of Justice Statistics website illustrate how shockingly prevalent sentences of death became after 1976. Before 1972, the number of persons on death row was rising, but still had only just crested 500. After 1976, the number of persons under sentence of death shot up dramatically, reaching an all-time high of 3601 in the year 2000. Recent Supreme Court cases have curtailed executions for the developmentally disabled (*Atkins v. Virginia*) and juveniles (*Roper v. Simmons*), and in several states executions have halted indefinitely following court challenges arguing that lethal injections violate the Constitution’s prohibition on “cruel and unusual” punishment. In January 2008, the Supreme Court will hear oral argument in one of these cases, *Baze v. Rees*.²

Moreover, American support for the death penalty has declined in recent years from an all-time high in the mid-1990s. In October 2006 a Gallup poll revealed that 67% of Americans supported the death penalty, whereas 80% had favored it in 1994.³ Notably, Black Americans have struggled more than White Americans to support the death penalty. During several periods since 1972, a majority of Black Americans has opposed it.⁴

It is unclear whether these statistics indicate that American support for the death penalty is

undergoing a sustained decline. On the one hand, the efforts of advocacy groups such as Amnesty International and the Innocence Project have exposed the errors and biases of our criminal justice system.⁵ It is likely that most Americans, even those in favor of a death penalty, would not want injustice perpetrated in their names.

On the other hand, very few of the Americans who oppose the death penalty do so because they believe that our flawed, all-too-human justice system is incapable of dealing justly in death. A majority of the 67% who supported the death penalty in October 2006 did so out of what criminal legal theorists call “retributive” impulses. They support executions because they believe that crime should have consequences, and that the “punishment should fit the crime.” Most of those opposing the death penalty did so out of the mirror image of this impulse — because they felt that it was “wrong” to take a life. (See Gallup information cited above.) Rather than focusing on the human-made inadequacies of their criminal justice system, Americans try to make the system further superhuman, if not divine ends. I am opposed to the death penalty because what I have seen of our justice system leads me to believe that we can never be perfect enough to condemn others to death. But in opposing the death penalty for that reason, I am unlike most of my fellow Americans.

Thus, what I take away from my review of the statistics is that Americans seek not fact-based or rational support for their opinions on the death penalty, but moral support. They seek

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*