

Debate Flares over Capital Punishment

Public debate over capital punishment has been forcefully renewed in the wake of the controversy sparked by the sentencing and execution of convicted murderer John A. Spenkelnik.



The 30-year-old drifter, who killed another man in a dispute over money, was electrocuted at Florida State Prison on the morning of May 25, shortly after the United States Supreme Court denied a stay of execution.

Mr. Spenkelnik was the first condemned murderer to be executed since January 1977, when convicted murderer Gary Gilmore, insisting that he be killed, was shot to death by a Utah firing squad.

Previously, there had not been an execution in the United States since 1967.

The debate over the death penalty has pitted public opinion — which has shifted dramatically in the last decade to favor capital punishment — against the policy statements of major Christian and Jewish bodies, all of whom oppose capital punishment.

Today, America is one of the few developed Western nations still with capital statutes on the books. South Africa regularly hangs offenders — nearly all blacks. France retains the guillotine but uses it only once or twice a year. In its new Constitution, Spain abolished capital punishment except for treason.

In the United States, there are about 500 prisoners on death row in 24 states, Florida, Texas, and Georgia accounting for more than 300 of them.

With the execution of Mr. Spenkelnik, the way seemed open for the execution this year and next of as many as 40 of the prisoners under death sentences in U. S. jails who have nearly exhausted the appeals process.

Debate over the efficacy and morality of capital punishment can be expected to grow more intense.

Public opinion polls show that approximately 70 per cent of Americans are in favor of the death penalty, a figure that reflects a nearly complete turnabout from public opinion in the 1960s.

Observers attribute the current public support for capital laws in part to the frustrations of a society increasingly faced with the terror of violent crime; that resents having to pay taxes to keep convicted killers in prison.

There is also "a very strong symbolic value" attached to executions, according to Dr. Ernest van den Haag, a New York psychologist and author, and a leading proponent of the death penalty.

"The motives for the death penalty may indeed include vengeance," he says. "(but) legal vengeance



This 1949 drawing, "Hanging", by Renzo Vespignani, illustrates an ancient form of capital punishment. The subject is now being debated.

solidifies social solidarity against lawbreakers and probably is the only alternative to the disruptive private revenge of those who feel harmed."

Religious leaders and groups are in the forefront of opponents of the death penalty who strongly reject all such argument.

Some groups of Christian fundamentalists, it is true, have proclaimed their belief that "the Bible teaches capital punishment," and have come out in support of death penalty legislation.

But most of the major national religious denominations and agencies, arguing on the basis of their interpretation of the Word of God, have demanded total abolition of capital punishment.

Among them: American Baptist Churches, U. S. Roman Catholic Bishops, Christian Church (Disciples of Christ), Episcopal Church, American Friends Service Committee, Lutheran Church in America, and the Mennonite General Conference.

Also: The National Council of Churches (NCC), Reformed Church in America, United Church of Christ, United Methodist Church, United Presbyterian Church in the USA, Unitarian Universalist Association, and the American Ethical Union.

Three major Jewish bodies have called for an end to the death penalty: American Jewish Committee, Synagogue Council of America, and Union of American Hebrew Congregations.

Among the more recent statements on capital punishment was that of the U. S. Catholic Conference, the national-level action agency of the Catholic bishops.

"The critical question for the Christian is how we can best foster respect for life, preserve the dignity of the human person, and manifest the redemptive message of Christ," said the Committee on Social Development and World Peace of the U. S. Catholic Conference.

"We do not believe that more deaths are the response to the question. We therefore have to seek methods of dealing with violent crime which are more consistent with the Gospel's vision of respect for life, and Christ's message of God's healing love.

"In the sight of God, correction of the offender has to take preference over punishment, for the Lord came to save and not to condemn."

But, reflecting the thrust of public opinion, legislators in 34 states have either kept or enacted death penalty statutes.

The only states with no such laws are Alaska, Colorado, Hawaii, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, New Jersey, North Dakota, Ohio, Rhode Island, Vermont, West Virginia, and Wisconsin.

Much of the debate over capital punishment results from what some legal observers see as the failure of the

U. S. Supreme Court to make a clearly-defined resolution of the issue.

In 1972, in its momentous *Furman vs. Georgia* decision, the high Court ruled that the death penalty, as then applied in the states, was unconstitutional because it was applied in an arbitrary and discriminatory way, bearing disproportionately on poor blacks and other minorities.

But the Court's ruling, which commuted to life imprisonment the sentences of about 600 persons on death row, held that capital punishment per se was not "cruel and unusual" punishment. It thereby left the door open for states to rewrite their capital statutes.

Four years later the U. S. Supreme Court struck down a number of state laws that made capital punishment mandatory for specific crimes, but upheld the capital statutes of Florida, Texas, and Georgia, which provided for a two-step judicial proceeding: one to decide guilt and one to determine sentence after consideration of mitigating circumstances.

Last July, the high Court held that capital punishment could not be automatically imposed for a particular crime and that a defendant must be allowed to present to the sentencing judge the widest possible range of mitigating factors about his or her character, record, and circumstances of the crime.

That ruling may require as many as 24 states to rewrite their capital punishment laws to guarantee opportunity for presentation of mitigating evidence.

Many legal observers say the high Court has created more uncertainties for states than it has cleared up.

"The current situation is utterly a state of confusion," says Prof. Alan Dershowitz of Harvard Law School. "The Supreme Court has confused the area intellectually right from the beginning... The Court has treated capital punishment like a political hot potato and has given no real guidance to the states."

Meanwhile, Churches and other religious organizations are being urged to mount an even stronger campaign to overcome the view that the violence of the state is a moral response to the violence of an individual.

Says Joseph P. Adams, chairman of the National Interreligious Task Force on Criminal Justice, an NCC-related group; "Violence in a society cannot be overcome by increasing violence, even if legal.

"Churches need to deliver a positive moral message in the critical debate over the issue of the death penalty. That message must emphasize God's gift of life. An urgent interpretation of the Gospel needs to be made once again for the Gospel would direct us to compassion and mercy — even in the face of murder."

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