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Death Penalty

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"For over 25 years, bishops in the United States have called into question the necessity of capital punishment in the context of respect for all life," observed Bishop Skylstad, chairman of the U.S. Catholic Conference Committee for Domestic Policy.

He said he hoped the changes in the catechism "would increase the dialogue around the death penalty and create an environment where we take a hard look at the violence in our culture."

But will people follow?

At least one local death penalty foe, however, is not optimistic that the change will affect most Catholics.

"It may or may not," said Clare Regan, co-coordinator of the Reconciliation Network: Don't Kill in My Name and a member of Rochester's Corpus Christi Parish.

"The church in the U.S., in fact, practically every denomination, have come out against the death penalty," Regan said. "But on the pastors and the people in the pews, it's had almost no effect. I'm hoping that the pastors will take this seriously and try to pass it down to the general public."

Marvin Mich, professor of theology at Rochester's St. Bernard's Institute, acknowledged that it remains to be seen how people accept the church hierarchy's increasing opposition to an issue that surveys indicate most Catholics support.

"Again we have that situation when the church hierarchy and much of the theological community is percolating on an issue, but how does that trickle down into the grass-roots?" Mich speculated.

A troubled past

History shows that the church's leadership has itself undergone several changes in thinking on the issue.

Megivern noted that because they left few writings on the topic it is difficult to tell how the early Christians felt about the death penalty.

"One might have thought that, since it is under (the harsh Roman penal) code that Jesus himself was cruelly and unjustly exe-

cuted, his followers could have had special reason to be critical of the practice," Megivern wrote. But, he said, "there is unfortunately not very much to go by."

Megivern added, however, that the pacifist stance of the early Christians suggests that "certainly some of them were against capital punishment."

As the church became more entwined with the government, early Christian theologians and writers began to address the issue, but with mixed messages, he observed. Origen (185-254), for example, defended the state's right to execute malefactors, but prohibited Christians from taking part in such killing.

One of the most ambiguous messages was left by St. Augustine of Hippo (354-430), whose writings were used to justify Christian violence in the centuries since, Megivern noted. But, he contends, St. Augustine has been misinterpreted.

"He wasn't going to deny that the state had the power to defend itself when absolutely necessary," Megivern said. "But he found few cases where it was absolutely necessary."

Thus while maintaining the theoretical right of the state to execute people, St. Augustine regularly tried to prevent executions. In one instance, he even pleaded for clemency for some heretics convicted of killing one priest and mutilating another.

Unfortunately, the full record of St. Augustine's writings on the issue was not studied until early this century, Megivern noted. Thus his pro-death penalty statements were used for centuries to justify capital punishment by state and church.

Another theologian whose writings have been used frequently to support the death penalty is St. Thomas Aquinas. But Megivern said that to understand Aquinas' support for the death penalty, one must understand the time in which he lived.

During Aquinas' lifetime, Holy Roman Emperor Frederick II was involved in violent disputes with the papacy. Aquinas' own brother, Rinaldo, was executed for plotting to kill Frederick.

Aquinas was caught in the middle of a complex and confusing situation, Megivern acknowledged.

In his arguments to justify executions,

Aquinas resorted to comparing the condemned to gangrenous parts of the body.

In arguing this, Mich pointed out, Aquinas was working with a world view that emphasized the state over the individual.

"What I see as the underlying judgment is that the common good is more important than individual rights," Mich said. "Thomas' view was that it's okay to cut off the gangrenous limb to save the body."

Thus, Mich added, the killing of the wrongdoer was needed in order to help save the body of the church or society. In Aquinas' reasoning, the executions thus had a "medicinal" purpose. Aquinas also argued that executions served as a deterrent to keep others from joining heretical groups, and that they were a legitimate form of justice in dealing with wrongdoers.

The wars against heretics within the church and in breakaway churches in the centuries after Aquinas, and the church's role as civil state, also led to continued church acceptance of the death penalty, Megivern noted.

Winds of change

The growing opposition to the death penalty in secular society began around the time of the Enlightenment in the 18th century, Megivern noted. The rights and dignity of the individual began to become more important than the rights of the state.

More voices were raised against the death penalty in the subsequent two centuries, leading to the current state in which the major Western nations have all abolished the death penalty — except the United States.

In the Catholic Church, the seeds of change were planted in the 1940s, Megivern said. Pope Pius XII's 1943 encyclical, *Divino Afflante Spiritu*, allowed Catholic theologians to use new scholarly methods in biblical studies, permitting reassessment of Bible verses that had been used to justify the death penalty. And the pope's 1943 encyclical, *Mystici Corporis Christi*, opened the door to dialogue with Protestants.

The trend accelerated with the Second Vatican Council (1962-65) and Pope John XXIII's 1963 encyclical, *Pacem in Terris*.

"One of the signs of the times that John XXIII was talking about was the dignity of the human person," Megivern explained.

Meanwhile, the council's documents defend the rights and dignity of the individual and redefined the church's relationship with the world, Megivern explained.

Those views helped to provide the basis for reevaluating the church's death penalty position. Individual human dignity was emphasized; a person could no longer be regarded as merely a "gangrenous" limb that could simply be amputated.

After the council, Catholics became increasingly vocal on the issue. At their 1974 meeting, the U.S. bishops approved (108-63) a resolution stating, "The United States Catholic Conference goes on record as opposed to capital punishment." The resolution was passed after the bishops rejected a more comprehensive statement 119-103.

After that vote, the U.S. bishops consulted the Pontifical Commission for Justice and Peace, which issued a response in 1976 that helped to move rejection of the death penalty forward.

In the document, the commission wrote, "the U.S. bishops have spoken out and acted firmly in defense of life against abortion and euthanasia. ... There is an inner logic that would call Catholics, with their sense of the sacredness of life, to be consistent in this defense and to extend it to the practice of capital punishment."

In 1980, the bishops approved a stronger "Statement on Capital Punishment."

In that document, they cited difficulties with the death penalty, including the fact that it eliminates the chance of reform for the convicted; that innocent people have been executed and continue to be convicted of capital crimes; and sentencing is often unfair and tinged by racism.

The tide of church statements against the death penalty continued, Megivern noted, with Pope John Paul II's *Evangelium Vitae* (1995), setting the stage for the current virtual rejection of the death penalty.

Megivern said the next step is, indeed, the total rejection of the death penalty.

"It may then well be time for advocating the final step, the complete abolition, even prohibition, of capital punishment as an anomalous exception that wormed its way into earlier forms of Christian ethics but which is beyond all justification today," he said.

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