

THE DEATH PENALTY IS JUSTICE THAT KILLS –NOT JUSTICE THAT HEALS

by **Rodolfo de los Santos Diamante**

I believe the issue of the Death Penalty is a major concern in prison pastoral care and the greatest threat to the human rights of prisoners. This issue is undoubtedly an emotional issue that divides people of whatever persuasion, including the church.

For some time the worldwide trend for abolition has been a welcome development. Of the 194 countries and areas in the world, about 123 are considered abolitionists (76 are completely abolitionists, 11 are abolitionists for ordinary crimes and 36 are de facto abolitionists). About 71 retain the death penalty. Twenty of these countries are in Asia. The Philippines, my country, is one of them. It holds the distinction of being the first country in Asia to abolish it and later reimpose it. I shall start our reflection on the death penalty issue using the Philippine experience as a springboard.

Profile and Conditions of Death Row Prisoners

As of November 15, 2005, we have about 1184 death row prisoners of which 1154 are male confined, in five congested dormitories in the New Bilibid Prison in Mutinlupa City and 30 female, confined in the Correctional Institution for Women in Mandaluyong City. Despite the exclusion of minors (18 years and below) and the elderly (70 and above) in meting out the death penalty, we have 17 minors and 11 old people on the death row. About 275 prisoners (264 male and 11 female) have received the final affirmation of their sentence and are ready for executions.

Most of the death row prisoners are convicted of rape (46 per cent); 24 per cent are convicted of murder, 12 per cent for kidnap for ransom, 12 for qualified robbery, 4 per cent for drug related cases and others for qualified bribery, graft and corruption and parricide.

There are about 46 crimes punishable by death. For 25 of these crimes, the death penalty is mandatory and for 21 of these crimes the death penalty may be imposed.

Most of the death row prisoners belong to the underprivileged sector of the Philippine society — almost 1/5 are absolutely poor. The majority are unschooled and unlettered having reached only elementary education. One third worked in the agricultural sector — the sector that accounts for most of the country. Most of the death row prisoners had no means to employ the services of the private counsel and instead avail themselves of the government's free legal services through the Public Attorney's Office that is undermanned and underpaid.

Death row prisoners will tell you that waiting to die, especially in those last hours, is a slow torture. Many say that waiting to die is little different to actually dying. The isolation, loneliness, boredom, numbing tension and fear combined with a loss of hope, have been labelled as the 'death row syndrome'.

The moment these prisoners are sentenced to death, their lives virtually end. From then on, the death row prisoners wait in limbo, praying for miracles. The reality of this waiting place is difficult to grasp. It is not a ward in a hospital where the sick wait to die. People here wait to be taken out of their cells and killed.

Since 1924, 89 have been executed. 82 from 1924–1976 and 7 from 1999–2000. The first execution by lethal injection was carried out last February 9, 1999 (Leo Echegaray) and the last one was January 4, 2000 (Alex Bartolome). Seven were executed under the administration of the former President, Joseph Ejercito Estrada. The list is as follows:

1. Leo Echegaray — February 5, 1999 for Incest Rape;
2. Eduardo Agbayani — June 25, 1999 for Incest Rape of 3 children;
3. Dante Piandong, Jesus Morillos and Archie Bulan — July 8, 1999 for Robbery with Homicide;
4. Pablito Andan — October 26, 1999 — Rape with Homicide;

As of this time the present administration has been granting reprieve to those scheduled for executions.

The Hopes of the Death Row Prisoners

Allow me to share with you the voices of our prisoners on the death row. These are voices of anger, pain, bitterness, remorse and hope. * Ambo convicted for Murder — ‘The greatest calamity or disaster a person can experience is to be accused and convicted of a crime you did not even imagine doing. I know I am a sinner. But I also know that I am innocent of this crime. Why did God allow this to happen? Where is He?’

- Rolly convicted for Kidnapping for Ransom — ‘My only consolation is that I am not alone. There are numerous other victims of injustice not here where I am now, but elsewhere in the world where they execute people; where justice is conveniently used as a means which effectively sanctions ill-established injustices.’

‘But when you are in Death Row, you try to look at the bright side, even when there’s hardly any.’

‘I can not decide if we should consider it lucky that the Supreme Court has not handed down decisions for the majority of us. What I do know is that this long wait is already killing us, killing our hopes.’

- Jojo, one of the 9 young offenders asked: ‘How can I believe in GOD who is love, when I have not experienced love in my life? I have been abandoned and grew up not knowing who my parents were. Now I will be put to death just because I can not present a birth certificate to prove that I am a minor.’
- Edgar, whose sentence was commuted by the President told the volunteers: ‘Thank you for being with us when everyone has left us. You did not know us and yet you care for us. Through you we saw how precious our lives were and we started hoping and believing in Him who has never abandoned us. We somehow have a glimpse of the face of God through you.’
- Agbayani — who was executed for the rape of his 3 young children told Fr. Bobby, the Chaplain of the National Penitentiary: ‘I know that what I have done is horrible and unforgivable. Please tell my children I am sorry. When they are DONE with me, can you please get my body and give me a Christian burial?’

‘My children, I hold no grudge against you. Please don’t worry. Goodbye.’

Voices: July 8, 1999 Execution of Piandong, Morillos, Bulan; 3rd, 4th and 5th victims of Execution (Murder of a policeman Gerry Reyes during a robbery aboard a jeep).

Piandong, 28: vehemently maintained innocence weeping bitterly and refusing to eat the last meal that was served him. 'Why take my life? Justice Secretary Serafin Cuevas, Pres. Estrada. I did not do this.'

Morillos, 32: 'I shout to you, I did nothing wrong, I did not do this!' (To his wife) — 'You know I did nothing wrong. I love you, I love our children. Be strong. You will be Mother and Father now. Have courage for the sake of our children.'

Bulan, 24: youngest of the convicts: 'I hope the executions end here. We sacrifice ourselves, even though we committed no crime. I am ready to die with a clear conscience because I know I have nothing to do with this case. I have not hurt any person in my life. I pray that I will be the last innocent person you will execute. May God have mercy on you.'

Generally, the death row prisoners want to be given a new lease for life — to be spared and continue their journey. Those guilty want to be forgiven, to amend their ways and do some reparations. The innocent hope to be given justice. They believe that the truth will prevail and that the guilty will be punished.

Others who are resigned to their fate are hoping for a better 'life' in the afterlife where they will be given a better opportunity. Those who have been executed hoped that their loved ones will be strong, that they will love each other; that the authorities will answer to God on their lives; that they will be forgiven and that their death will satisfy their victims and society; that they will be the last to be executed; that they will eventually be vindicated and their victims will be appeased by their death. Others, are angry, mad, sad, depressed, want to get even.

Why They Still Hope — The Source of this Hope

1. Their faith in God sustains them and makes them hope that God will intervene and save them. Because God is kind and merciful, He will answer their plea and will listen to their pain. God does not sleep. He will come and rescue them.

2. The Love, Care, Concern especially of their FAMILIES who have not abandoned them keep their hope alive.
3. The belief that the TRUTH will prevail and that their situation is only temporary, a test and a trial.

Transformation of Death Row Prisoners

Despite the daily terror of waiting to die, many prisoners have undergone astounding transformations as their execution date drew near. The transformation begins several months after they arrive on the row. Once they start coping with their fear and boredom, and learn how to get through the day, they reach out to other prisoners, forming tightly knit communities. This debunks the myth that convicted felons cannot change. The state does not accomplish that feat, they do it by themselves.

- I've known guys who have killed three people and mature into fine human beings. The problem is that prisoners are judged by their worst moments.
- Fr. Bobby Olaguer, National Penitentiary Chaplain observes that prisoners within hours of being killed reach out not only to him but also to their families and to people around them in loving and supportive ways that are just astonishing. He could not explain why it happens, yet candidly admitted that he doubts he would be able to do so if he were in their shoes.
- Whether there is an actual transformation, a total rehabilitation of a once-tormented human being, men facing death become almost heroic in their final hours. Whether their defenses break down, or for the first time in their lives, they see vividly the results of their action, they become legitimately worried about the effects of their death in their families and friends.
- Prisoners claim that Leo Echegaray, the first man executed through lethal injection was an inspiration to everyone facing death. His unspoken message rang loud and clear throughout death row. 'This is how you face death and not give up your dignity. This is how you live on death row and not demean yourself in front of your keepers. This is how you act like a man in the most degrading situation imaginable. He goes on with his life trusting that God knows best'.

Views from Prominent Persons

- Coretta Scott King, widow of Martin Luther King whose life was snuffed out by an assassin's bullet, absolutely opposed the death penalty. She said: 'I stand firmly and unequivocally opposed to the death penalty of those convicted of capital offenses. An evil deed is not redeemed by an evil deed of retaliation. Justice is never advanced in the taking of human life. Morality is never upheld by legalised murder.'
- Mahatma Gandhi, an assassination victim, himself, and certainly one of the greatest modern world leaders had urged his followers to follow the principle of Satyagraha (firmness in the right) and abhor hatred of and violence against their oppressors in their struggle for freedom. He said: 'God above sees who does wrong. He punishes him. Who are we to judge?'

Since we cannot possibly know the absolute truth, we are 'therefore not competent to punish' (anyone, physically, no matter if he has it coming to him.)

To Gandhi, the only test of truth is action based on the refusal to do harm... a determination not to violate another person's essence which death penalty executions surely do.

- Kahlil Gibran, a Lebanese poet and philosopher, who when asked to speak on Crime and Punishment said: 'And let him who would lash the offender look upon the spirit of the offended. And if any of you would punish in the name of righteousness and lay the axe unto the evil tree, let him see to its root' And verily he will find the roots of the good and the bad, the fruitful and the fruitless, all entwined together in the silent heart of the earth.'

The Catholic Bishops' Conference of the Philippines Position

The Catholic Bishops' Conference of the Philippines has been at the forefront of the campaign to STOP THE EXECUTIONS AND ABOLISH THE DEATH PENALTY. It has organised through the Episcopal Commission on Prison Pastoral Care, the COALITION AGAINST THE DEATH PENALTY, a coalition of 22 nongovernment organisations, government agencies, church groups and human rights groups. The following are the reasons why we opposed the death penalty:

- We view the abolition of the death penalty as a step towards a practical recognition of the dignity of every human being created in the image and likeness of God.
- We believe that the cry for retribution need not entail the killing of the person. While the killing may satisfy **VINDICTIVE DESIRES**, such satisfaction cannot be the objective of an humane and Christian approach to punishment. From the Christian point of view, Christ's words about the forgiveness of injuries and above all his own example in the **CROSS** call not for **VINDICTIVE PUNISHMENT**, but rather for more humane and humanising responses to **EVIL DOING**. We cannot argue that we should do to the criminal what he did to his **VICTIM**. For certainly, we would not justify inflicting torture and maiming of limbs of a person who has criminally tortured and maimed another. Death used as retribution for sin concentrates all punishment on the person executed. It kills in the conviction that the convicted criminal is **TOTALLY RESPONSIBLE** for the heinous crime he committed. **YET, THIS IS NOT THE CASE**. Many criminals commit their crimes as victims of unpunished crimes of others. The person who kills under the influence of drugs is the victim of unpunished pusher; the hired killer is victim of his poverty and the person who hires him. This **DOES NOT DENY THE CRIMINAL'S RESPONSIBILITY** for his crime, for which he has to be rightly punished. **IT DENIES HIS SOLE RESPONSIBILITY**.
- We are mandated to work for Justice that Heals and not Justice that Kills. We should develop a philosophy of punishment that will move from **PUNISHMENT** to **RECONCILIATION**; from **VENGEANCE** to **HEALING OF VICTIMS AND OFFENDERS**; from **ALIENATION** and **HARSHNESS** to **COMMUNITY WHOLENESS** or **SHALOM**; from **NEGATIVITY** and **DESTRUCTIVENESS** to **HEALING** and **FORGIVENESS AND MERCY**. This is the **JUSTICE THAT RESTORES HUMAN DIGNITY**.
- We believe that the abolition of the death penalty is consistent with the Church's commitment to protect and enhance life from conception to its natural end. 'The right to life is the most basic and fundamental right and the condition for all other personal rights. The human being is entitled to such right, in every phase of development from

conception until natural death and in every condition, whether healthy or sick, whole or handicapped, rich or poor'(CHRISTIFIDELIS LAICI 48) We believe that human life and the right to it are better defended by abolishing the judicial authorisation to impose the death sentence.

- The application of the death penalty is biased towards the poor. The criminal justice system is perceived to be like a spider's web that is able to catch only the small fly. The rich literally can get away with murder. Moreover, because of the imperfect system there is always the possibility that the innocent will be executed.

Instead of the Death Penalty, we propose the following:

1. The relentless pursuit of the direct attack on POVERTY, especially abject destitution that is a fertile breeding ground for criminality.
2. A well coordinated effort to combat the causes of crime such as injustices, drug addiction, gang culture and the culture of violence propagated by the MEDIA.
3. Reform of the law enforcement agencies, the penal system and the justice system that are peopled by hoodlums in uniform, hoodlums in 'barong or suit' and hoodlums in robes, so that speedy justice will be meted out to all regardless of economic and social status.
4. Cleanse the system of SCALLYWAGS who have connived with the perpetrators of crime.
5. Elimination or lessening of the atmosphere of violence and culture of death.

We believe that in dealing with the issues of crime, law and order, the Church has to proclaim the age-old message that JESUS came that we might have life — LIFE TO ITS FULLNESS.

Rodolfo de los Santos Diamante is the Executive Secretary of the Catholic Bishops' Conference of the Philippines Episcopal Commission on Prison Pastoral Care, and Asia's Representative on the International Commission of Catholic Prison Pastoral Care and International Prison Pastoral Care.