



**Victorian Council of Churches
Social Questions Commission
Death Penalty Position**

March 2009

The churches and church bodies that make up the Victorian Council of Churches either hold a position that the death penalty should never be applied (such as the Salvation Army, the Uniting Church in Australia, the Anglican Diocese of Melbourne) or that it can only be used in cases of absolute necessity, but that such cases are very rare, if practically non-existent (as in the case of the Anglican Church and Catholic Church).

Examples of the Death Penalty

Case 1

Atefeh Rajabi Sahaaleh, aged 16, was hanged for repeated “crimes against chastity” on 15 August 2004. She was executed in public, in the centre of the town of Neka in northern Iran. The execution was carried out despite reports that Atefeh Rajabi was not believed to be mentally competent and that she did not have access to effective legal defence at any stage.

During the trial, Atefeh Rajabi is said to have lost her temper, shouted at the judge that she had been the victim of acts carried out by an older man, and thrown off her headscarf in protest. The judge reportedly reprimanded her and later said she had “undressed in public”.

Case 2

Philip Workman, aged 53, was executed by lethal injection in Tennessee on 9 May 2007 despite evidence that a key state witness had lied at his trial and that Lieutenant Ronald Oliver, the police officer that Philip Workman was convicted of murdering during a 1981 robbery, may have been accidentally shot by a fellow police officer. Philip Workman had been on death row for 25 years.

Case 3

In the early morning of New Year’s Eve 1921, the naked body of 12 year old Alma Tirtschke was found in Gun Alley, a dead end lane off Melbourne’s Little Collins Street. She had been raped and strangled. Saloonkeeper Colin Campbell Ross was charged with her murder and hanged at Melbourne Gaol on 24 April 1922, protesting his innocence to the end.

In the 1990s it was found that the crucial prosecution evidence that hair samples found on Ross’s blanket that were said to be those of Alma were found not to match. In 2008 the Victorian Government squashed the conviction of Colin Campbell Ross after the assessment of three Judges of the Supreme Court that Ross was innocent. The Ross family had suffered a very long time with the knowledge that an innocent relative had been executed by the State for a horrendous crime he did not commit.

The Death Penalty and Theology

Love and mercy are two of the abiding values of the Christian faith.

At the heart of the Christian faith is a death penalty story. It provides the most obvious model as to why Christians should oppose the death penalty. Jesus Christ was arrested on trumped up charges that were politically motivated by religious leaders desperate to hold on to their power. He was beaten up and handed over to the Roman authorities. The Roman in charge of the occupying forces in Jerusalem at the time believed that Jesus had done nothing wrong, but handed Him over to be executed to maintain peace and order in Jerusalem.

Jesus was then tortured before being executed by the slow and painful technique of crucifixion, which the Romans designed to be drawn out and cruel.

The story of Jesus is one that says that violence cannot be truly overcome by the use of more violence. On the one occasion in the Bible when Jesus was directly asked about the death penalty – the stoning of a woman to death for having sex with a man who was not her husband (John 8) – his answer was “Let the one who is without sin among you cast the first stone”. The crowd dispersed and when Jesus looked up the accused woman was the only person there with Jesus. Jesus asks the woman “Where are they? Is there no one left to condemn you?” “No one, sir”, she answered. “Well then,” Jesus said, “I do not condemn you either. Go, but do not sin again.”

The spirit and ministry of Jesus of Nazareth is one where the offender is held to account, but where there is endeavour to restore the offender so that he/she can be included again in the community. Jesus’ justice shows that reconciliation is only possible by inclusion in the community.

Jesus also speaks against taking revenge “You have heard it said ‘An eye for an eye, and a tooth for a tooth’, but now I tell you: do not take revenge on someone who wrongs you” (Matthew 5:38-39). A cycle of violence can only truly be broken by love, compassion and understanding. There are alternatives to violence if we will but recognise and promote them. They may not be as spectacular as quick fix violent retaliation but they are more real and long lasting.

Every person is of unique worth, a God-given dignity and value – even those who have failed to respect the rights and values of others. Every person is a child of God and needs to be respected as such. The respect for life, basic to every civilised society, is diminished by the taking of life.

There is a need to address those things that contribute to people committing crimes, such as poverty, a culture of greed and selfishness.

The State has a responsibility to defend public order and ensure people’s safety, while at the same time offering the offender an incentive to change her or his behaviour and be rehabilitated. To cast people out by death or alienation may make those in power feel safe and virtuous, but it diminishes their humanity.

The World Council of Churches (WCC) Central Committee passed a recommendation in 1971 to “promote efforts toward the abolition of capital punishment as a significant expression of our belief in the sanctity of life.” Further, the WCC Central Committee adopted a position of total opposition to the death penalty in March 1990. They argued that “all human beings created in God’s image have inherent dignity and are of infinite worth, and that the taking of human life by the state is against the will of God.” Further, “the institutionalised taking of human life prevents the redemption and reconciliation of the offender and is contrary to Christian love as revealed in the New Testament.”

Practical Reasons to Oppose the death penalty

There are practical reasons to oppose the death penalty.

Problem of Executing Someone who is Innocent

The first is that legal systems are not perfect and they make mistakes, so that where a mistake is made with the death penalty an innocent person is put to death. It is not uncommon for mistakes in the legal system to be identified at some later time and if the person has only been imprisoned, then at least they can be released. People who are poorer often lack the ability to gain good legal representation and are more likely to be found guilty when they are innocent, or fail to have mitigating circumstances taken into account (such as having a mental illness) in the case where they have committed the crime.

Since 1973, over 120 people who were sentenced to death have subsequently been released before the execution was carried out as evidence emerged that they were innocent of the crime they were convicted of.

Taking Away the Opportunity for Reform and Redemption

In cases where the person is guilty of the crime, then the death penalty removes the opportunity for the person to reform and to make amends for their crime.

Death Penalty does not act as more effective deterrent

There is no evidence that the death penalty acts to deter crime more than any other punishment. The use of the death penalty is not a determining factor in crime rates between states in the US that continue to carry out the death penalty and those that do not. In the USA in 2004 the average murder rate for states that used the death penalty was 5.71 per 100,000 of the population as compared to 4.02 per 100,000 in states that do use it. In 2003 in Canada, 27 years after the country abolished the death penalty the murder rate had fallen 44% since 1975, when capital punishment was still used.

Death Penalty may encourage violent crime

It has been argued that the use of the death penalty can actually encourage violence in a society, as the State sets an example that violence and killing are ways to solve problems.

There is also an argument that the death penalty can encourage criminals to be more violent. Once criminals know they have committed one crime for which they will be executed, there is little incentive not to commit more crimes. For example, if armed robbery carries the death penalty, then an armed robber does not add to their punishment by committing murders during the robbery.

Discriminatory nature of the Death Penalty

On a global level, the death penalty is often used in a discriminatory way upon those in poverty, minority groups, oppressed groups in society or against political opponents of those in power.

Death Penalty can take the focus off addressing the causes of crime

The level of crime in a society has many complex motivating factors and a focus on the death penalty can let politicians off the hook in terms of addressing the causes of crime, such as provision of adequate mental health services.

In the USA, where people with mental illnesses from impoverished backgrounds are often left to live on the streets without any services to assist them with their illness, Amnesty International has found that since 1977 at least one in ten of the people executed had suffered from a serious mental disorder rendering them unable to rationally comprehend their death sentence, its reasons or its implications.

Impact of the Death Penalty on Family Members

The death penalty makes innocent victims of the family of the person subjected to the death penalty, especially when that person is innocent of the crime they have been convicted of.

Many family members and relatives of murder victims themselves oppose the death penalty and find it distressing that the death of their loved one is used to carry out a death penalty or promote its use. At the same time there are relatives of victims who say they want the death penalty applied.

Problems with the Methods of Execution

Methods of execution all have problems, in terms of seeking a method of execution that can be regarded as humane. Shooting, hanging and beheading have all failed, on occasion, to produce an instant death and further violence has been needed to kill the prisoner. They also have a number of unpleasant effects such as bodily mutilation and bleeding during decapitation, small of burning flesh in electrocution, disturbing sights or sounds in lethal gassing and hanging, the problem of involuntary defecation or urination.

The use of lethal injections has also had cases of the execution being botched. On 10 February 1998 the first execution by lethal injection in Guatemala was botched while being televised. Those carrying out the execution were nervous because of the weeping of the wife and children of the condemned man as the execution was being carried out and then a power cut during the injection of the lethal drugs meant it took the condemned prisoner 18 minutes to die. On 13 December 2006 it took Angel Diaz 34 minutes to die from lethal injection for a murder he committed in 1979. A second dose was administered to end his suffering. His execution went ahead despite the fact a key prosecution witness had recanted his trial testimony against Angel Diaz, who proclaimed his innocence to the end.

The chemicals used in the US to carry out the death penalty by lethal injection are banned in some states from being allowed to be used to put animals to death 'humanely'. For example, in Texas, which executes more people than any other State in the US, the drugs used to kill prisoners are banned from being used to put down cats and dogs as they are regarded as not being humane enough.

Global Trends on the Death Penalty

In 1977 only 16 countries had abolished the death penalty for all crimes. As of December 2008 that number stands at 93, with a further 9 having abolished the death penalty for ordinary crimes and a further 36 having abolished the death penalty in practice although it still remains a penalty in their legal system. Fourteen states in the USA do not have the death penalty and the number of death sentences being issued has dropped 60% since the 1990s. In February 2009 the Governor of Maryland has publicly argued that the death penalty should be abolished as capital cases cost three times as much as homicide cases where the death penalty is not sought. Capital cases are expensive because trials tend to take longer, they typically require more lawyers and more costly expert witnesses, and they are far more likely to lead to multiple appeals. A similar case has been made by legislators in Colorado, Kansas, Nebraska and New Hampshire where bills have been put forward to repeal the death penalty. It is believed that such bills have a good chance of passing in Maryland, Montana and New Mexico.

Only 59 countries continue to retain the death penalty and only 24 of these have carried out executions since 2007. 88% of all known executions took place in just five countries: China, Iran, Pakistan, Saudi Arabia and the USA. At least 1,252 people were executed in 2007.

Amnesty International reports that 71 people who were below 18 at the time of the crime they were convicted of have been executed in nine countries since 1990. The nine countries involved in the execution of children are China, the Democratic Republic of Congo, Iran, Nigeria, Pakistan, Saudi Arabia, the USA and Yemen. The USA and Iran between them have executed more children than all the other seven countries combined, with the USA having executed 19 child offenders since 1990 (all of whom were aged 16 or 17 at the time of the offence). Iran, Pakistan and Yemen have executed children who were as young as 13.

Public support for the death penalty appears to be significantly linked to a desire to be free from the threat of violent crime. In the USA, a May 2006 poll found that support for the death penalty dropped from 65% to 48% when life imprisonment without parole was offered as an option. The Disciples of Christ called for a permanent moratorium on capital punishment in the USA in 1991.

In Pakistan the death penalty remains for the crime of blasphemy and it has been used by people wanting to settle other disputes.

In its statement on human rights during the 8th Assembly in Harare, Zimbabwe, 3-14 December 1998, the World Council of Churches stated:

The WCC has long stood against the use of the death penalty, but recourse to this ultimate form of punishment is often sought by victims in societies ridden by crime and violence.

The churches have a responsibility to inform society at large of the alternatives to such harsh and irreversible penalties, such as rehabilitation of offenders, and of the need for strict adherence to the international rule of law and international human rights standards related to the treatment of offenders.

Appendix – Positions of individual member churches of the Victorian Council of Churches on the death penalty

Anglican Church

The 39 Articles of Religion of the Anglican Church allowed for the use of the death penalty by the State “for heinous and grave offences”.

At the 2003 Synod meeting of the Melbourne Diocese, (in the context of the Bali bombings and the Amrozi case), Synod members passed a motion affirming that “every human being is of eternal value as an end for whom we should work rather than as a means to some other end and therefore:

- (a) upholds the abolition of the death penalty as a punishment for crimes against our society in Victoria and Australia,
- (b) supports the call of the 1988 Lambeth Conference of Anglican Bishops to speak out against all governments who practice capital punishment, and encourages these governments to find alternative ways of sentencing offenders so that the divine dignity of every human being is respected and yet justice is pursued.”

Catholic Church

From Encyclical EVANGELIUM VITAE (The Gospel of Life) John Paul II, 25 March 1995.

Paragraph 56 “...It is clear that, for these purposes to be achieved, the *nature and extent of the punishment* must be carefully evaluated and decided upon, and ought not go to the extreme of executing the offender except in cases of absolute necessity: in other words, when it would not be possible otherwise to defend society. Today however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent.

In any event, the principle set forth in the new *Catechism of the Catholic Church* remains valid: 'If bloodless means are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons, public authority must limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person.'"

Salvation Army

The position adopted by the international headquarters of the Salvation Army in 1996 states: The Salvation Army believes in the sanctity of all human life. It considers each person to be of infinite value, and each life a gift from God to be cherished, nurtured and preserved.

The Army believes that forgiveness and transformation are possible for each human being, regardless of his / her past. Christ's death is redemptive for all who have faith, making it possible for the worst of offenders to find new life in Christ Jesus if they are truly repentant. Long experience in rendering service within the criminal justice systems of many lands, and in ministering to both offenders and victims, and to their respective families, has confirmed the Army's belief in the possibility of forgiveness and redemption for all through repentance toward God, faith in Jesus Christ, and regeneration by the Holy Spirit.

Because of these beliefs, it would be inconsistent for the Army to support efforts to continue or restore capital punishment. While agreeing that wrongdoing should be adequately dealt with, Salvationists do not support the death penalty.

Uniting Church in Australia, Synod of Victoria and Tasmania

In 1989 the annual meeting of the Synod passed the following resolution:

89.3.6.2 The Synod resolved:

- (a) To oppose vigorously all calls for the re-introduction of capital punishment, re-affirming the stance of complete opposition to the death penalty adopted by the Methodist Conference of Victoria and Tasmania (1961, 1962, 1975) and the Presbyterian Assembly of Victoria (1962, 1967).
- (b) That a copy of resolution 89.3.6.2(a) be forwarded to the Premier of Victoria and to the Leader of the Opposition.