

# Centre for Christian Ethics

Background Paper 12  
February 2007

The ethics of capital punishment

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## Introduction

Capital punishment may be defined as the execution of a convicted criminal by the state on the grounds of justice and/or deterrent benefit to society.

Capital punishment has been practiced since the beginning of recorded history. Hammurabi's code (c. 1750 BC) applied the death penalty to some 25 offences, including government corruption, theft and various sexual offences. Egyptian records indicate that the death penalty was in practice as early as 1500 BC. In ancient Athens, capital crimes included murder, defacing coins, theft, kidnapping and pick-pocketing.<sup>1</sup> Ancient Israelite law imposed the death penalty for a wide range of offences. Early in the industrial revolution, English law applied the death penalty to more than 200 offences including tree-logging and pick-pocketing. In many countries capital punishment is no longer applied or has been abolished, but in such cases it may be reactivated or reintroduced.

The human rights agency Amnesty International estimates that 128 countries have now abolished the death penalty in law or practice. But in 2005 at least 2,148 people were executed in 22 countries (about 1,770 of these in China), and at least 5,186 people were sentenced to death in 53 countries. The total number of people condemned to death and awaiting execution is estimated at between 19,474 and 24,546. Since 2000, state executions have been carried out by beheading (in Saudi Arabia and Iraq), electrocution (USA), hanging (Egypt, Iran, Japan and other countries), lethal injection (China, USA, Philippines and other countries), shooting (China, Belarus and other countries), and stoning (Afghanistan and Iran).<sup>2</sup>

In Australia, the first recorded state execution took place at Port Jackson, Sydney, on 27 February 1788, less than a month after the arrival of the First Fleet, when Thomas Barrett was hanged for stealing food from public stores. The last person executed in Australia was Ronald Ryan in 1967 for shooting a prison guard during an attempted escape from jail. The federal government abolished the death penalty in 1973. All Australian states and territories have also abolished the death penalty, with Queensland the first in 1922 and NSW the last in 1985.<sup>3</sup>

Australia has ratified several international treaties abolishing the death penalty, including the *Convention Against Torture and Other Forms of Cruel, Inhuman and Degrading Treatment or Punishment* (1989), the *Convention on the Rights of the Child* (1990 – article 37), and the *Second Optional Protocol to the International Covenant on Civil and Political Rights* (1990).

There are strong arguments for and against capital punishment. Many claim that crimes such as murder, terrorism, drug trafficking and genocide should attract the death penalty, either as retribution or as a deterrent to others. On the other hand, capital punishment is sometimes characterised as barbaric or inappropriate for civilized society. Amnesty International describes the death penalty as “the ultimate cruel, inhuman and degrading punishment,” an act that “violates the right to life.”<sup>4</sup>

Despite its abolition in Australia, interest in capital punishment remains current for several reasons. Popular, political and legal debate in many countries on the question of abolition or reinstatement is followed and contributed to by Australians. From time to time Australian citizens are convicted of offences overseas that attract the death penalty. Some victims of serious crimes, or their families, argue for the reintroduction of capital punishment in Australia on the grounds of retributive justice or revenge. Others favour the return of the death penalty on religious grounds such as Islamic *sharia* law or Christian notions of theocratic or biblically-based government.

Among Christians, there is disagreement about the interpretation and application of various biblical texts thought to support capital punishment or its abolition. Another issue is whether advocacy of the death penalty for criminals is consistent with the concept of the absolute right to life often claimed by such advocates for the unborn and the terminally ill. A further debate concerns the relative merits of retributive, rehabilitative and restorative justice in the light of Christian theology and pastoral practice.

This paper discusses recent Australian events relating to capital punishment, considers the biblical and ecclesial teaching on the death penalty, outlines key arguments for and against capital punishment, and offers suggestions for further reading.

## Recent Australian events

It is more than three decades since the last person was executed by the state in Australia. The political, racial and religious tensions that attend debates on capital punishment in the US are not apparent here. Yet recent international events involving Australian citizens, especially in South-East Asia, ensure that debates in Australia on the ethics of capital punishment are far from merely academic.

Some readers will recall that Australians Kevin Barlow and Brian Chambers were executed in Malaysia in 1986, and Michael McAuliffe in 1993, for drug trafficking. Nguyen Tuong Van was hanged in December 2005 for importing 396g of heroin to Singapore. Tran Van Thanh, Tran Thi Hong Loan, Mai Cong Thanh and Nguyen Manh Cong, all Australian citizens, have all been convicted of trafficking heroin in Vietnam and are either on “death row” or have been executed. Most recently Shapelle Corby was charged with trafficking 4 kg of cannabis in Bali and faces possible execution, as do at least two of “the Bali Nine,” Andrew Chan and Myuran Sukumaran.<sup>5</sup>

Ironically, Islamist terrorist suspect David Hicks, whom at least some Australians would like to see executed, is protected by an agreement between the US and Australian governments ensuring that no Australians tried by military commissions at Guantanamo Bay are sentenced to death.<sup>6</sup>

While stories such as these attract the media spotlight, so too do comments about capital punishment by prominent Australian politicians. In March 2003 Prime Minister John Howard stated on US television that “everybody” would welcome the death penalty for Osama Bin Laden, a view echoed by Foreign Minister Alexander Downer. Mr Howard also stated that Australia would not protest the death penalty for those convicted of the 2002 Bali bombings. Both the Prime Minister and the then Opposition Leader Mark Latham said they would support the death penalty for Saddam Hussein if imposed.<sup>7</sup>

While he claims he is firmly opposed to capital punishment, Prime Minister Howard has said on Melbourne radio that he knows a lot of people who support it. “I know lots of Australians,” he said, “who believe that a death penalty is appropriate and they are not barbaric, they’re not insensitive, they’re not vindictive, they’re not vengeful, they’re people who believe that if you take another’s life deliberately then justice requires that your life be taken.”<sup>8</sup>

Comments such as this, and the results of polls on whether the death penalty should be reintroduced in Australia, suggest that there is strong interest on the

part of some Australians in revisiting the question. Indeed University of Queensland academic Brett Bowden fears that “if the question of the death penalty were put to the Australian people via referendum there is a very good chance that it would be reintroduced.”<sup>9</sup>

As Bowden points out, this is unlikely to eventuate since both major political parties oppose the death penalty as a matter of policy. If capital punishment were reintroduced, it would most likely be by one of the states. Should this be attempted, it is possible that the federal government would use its external affairs power to prevent the state from succeeding, perhaps by explicitly adopting the *Second Option Protocol* referred to above.

While capital punishment has been abolished in Australia and is unlikely to be reintroduced federally or by the states in the foreseeable future, there appears to be growing support in some sections of Australian society for the notion that those convicted of serious crimes such as murder, drug trafficking, terrorism and genocide should face the ultimate penalty.<sup>10</sup>

## The biblical teaching

Christians generally draw on four sources of authority – Scripture, tradition, reason and experience – in making moral judgments, and Scripture is far from silent on the subject of capital punishment. Further, as Christopher Marshall puts it, “for many devout readers of Scripture, God and the gallows are perfectly compatible.”<sup>11</sup>

The Old Testament (OT) law in Exodus and Deuteronomy contains most of the biblical teaching on capital punishment. Moses prescribed the death penalty for various offences, although Israelite law imposed the death sentence on fewer crimes than was the case in other ancient Near Eastern cultures.

Although different scholars arrive at slightly different lists, capital offences in ancient Israel most likely included:

- Murder (Ex 21:12-14)
- Causing a miscarriage (Ex 21:22-25)
- Owning an ox that killed people (Ex 21:29)
- Cursing or killing one’s parents (Ex 21:15; Lev 20:9)
- Incorrigibility toward one’s parents (Deut 21:18-21)
- Kidnapping (probably for slavery) (Ex 21:16; Deut 24:7)
- Adultery (Lev 20:10-21; Deut 22:22)
- Incest (Lev 20:11f, 14)

- Bestiality (Ex 22:19; Lev 20:15f)
- Male homosexual intercourse (Lev 20:13)
- Sexual intercourse during menstruation (Lev 20:13)
- Premarital sexual promiscuity (Deut 22:20f)
- Rape of a married woman (Deut 22:25-29)
- Rape of a betrothed virgin (the virtual equivalent of adultery) (Deut 22:23-27)
- Sorcery and witchcraft (Ex 22:18)
- Offering human sacrifice (Lev 20:2)
- Offering sacrifice or worship to a false god (Ex 22:20; Deut 13:6-11)
- Blasphemy (Lev 24:11-14, 16, 23)
- Sabbath-breaking (Ex 35:2)
- Priestly service while drunk (Lev 10:8-11)
- False prophecy (Deut 13:1ff; 18:20)
- Contempt for a court's decision (Deut 17:8-13)
- False testimony in a capital case (Deut 19:16-19)

The death penalty does not seem to have been prescribed in ancient Israel for accidental killing or manslaughter, although some scholars view references to negligence resulting in loss of life in Ex 21:8f and Deut 22:8 as punishable by death.

Two things should be noted with respect to these OT laws. First, the standard of proof for conviction on capital offences was very strict. Conviction required two or three eyewitnesses (Deut 19:15; Num 35:30), and circumstantial evidence was inadmissible. As evangelical ethicist Scott Rae observes, "If this principle is applied consistently to capital murder cases today, one would have to admit that the majority of people on death row have been sentenced to death in a way that is not consistent with biblical guidelines."<sup>12</sup>

Second, the degree to which the death penalty was actually applied to convicted criminals is not clear from the biblical records. It may be that, like the jubilee laws, the death penalty was viewed by successive generations as splendid in principle but easily set aside in practice.

The most significant biblical passage dealing with the death penalty is arguably Genesis 9:6, which records God's words to Noah and his family after they disembarked from the ark:

Whoever sheds the blood of a human,  
by a human shall that person's blood be shed;  
for in his own image God made humankind.

A similar thought is expressed in Exodus 21:23-25, the source of the doctrine of *lex talionis*, "a life for a life," ensuring that vengeance for serious wrongs was neither greater nor lesser than the harm done.

Those who look to the Bible to support the death penalty often emphasise that the statement in Genesis 9:6 was given to all humankind, not to Israel alone, and that its basis is the unchanging theological truth that humans are made in the image of God. Thus Reformed ethicist John Jefferson Davis argues that "just as an act of desecration to a nation's flag represents an attack on the nation itself, so an attack on man represents an attack on the divine majesty."<sup>13</sup> For retentionists, the sacredness of human life would seem to justify the ultimate penalty for one who deliberately takes a life, and provide the strongest deterrent to potential murderers.

Those who look to the Bible in support of abolition often read Genesis 9:6 as a divine *prediction* of the future consequences of murder, and not as a divine *command* indicating the appropriate punishment for murder. They may also argue that New Testament passages such as Matthew 5:38-41 deprecate the OT doctrine of "a life for a life." Yet a distinction is sometimes made between the responsibility of the individual to pursue forgiveness and mercy and the responsibility of the state to maintain retributive justice including execution for heinous crimes.

The relevance of OT law for the church has been the subject of great debate for almost two thousand years, and this naturally affects whether and how Christians apply the laws relating to the death penalty. Among evangelicals in particular, some hold that the ceremonial and civil aspects of the OT law do not apply to the church (citing passages such as Gal 3:24, Rom 6:14f and Heb 10:1); others argue that the distinction made between ceremonial, civil and moral aspects of the law is false and other arguments must be formulated if Christians are to set aside sections or aspects of the OT law as no longer relevant.<sup>14</sup> Another approach emphasises that God's covenant with Noah was universal while his covenant with Moses was specific to Israel, and argues for the continuing validity and universal application of the principle of Genesis 9:6 for the crime of murder – but not for many of the capital crimes listed in Exodus and Deuteronomy.<sup>15</sup>

There is scant reference to the death penalty in the New Testament, although of course Jesus himself suffered capital punishment at the hands of the Roman state. The main passages are John 7:53-8:11, Romans 13:1-7 and Acts 25:11, and there are several other implicit NT statements.

In John 7:53-8:11, Jesus encounters a woman accused by the scribes and Pharisees of adultery – an offence worthy of death under OT law. To the men he said, "Let anyone among you who is without sin be the first to throw a stone at her"; and they all left. To the woman he said, "[I do not]

condemn you. Go your way, and from now do not sin again.” Abolitionists claim this story as proof that Jesus rejected capital punishment.

Retentionists respond by arguing that, since no witnesses were actually willing to accuse the woman (cf Num 35:30), the case was ruled invalid; and that Jesus’ statement to the woman was not a declaration of his rejection of capital punishment but merely an assurance that God had forgiven her sin.

In Romans 13:1-7, Paul teaches that it is the responsibility of the civil government to maintain civil order. In verse 4, Paul writes that the state “is God’s servant for your good. But if you do what is wrong, you should be afraid, for the authority does not bear the sword in vain!” Abolitionists interpret the word “sword” as a metaphor for law enforcement in general, just as we speak of “the crown” as a metaphor for governmental authority. Retentionists interpret the word “sword” to imply the state’s power to apply the death penalty, arguing that Paul accepted this as part of the state’s legitimate authority.

In Acts 25:11, Paul, imprisoned for his gospel work and standing before the procurator Festus, appealed to the emperor, saying that “if I am in the wrong and have committed something for which I deserve to die, I am not trying to escape death...”

Retentionists use this passage to argue that Paul presupposed that some crimes were punishable by death, and did not seek to escape the ultimate penalty if convicted of a capital offence.

Abolitionists respond that Paul’s comment was an assertion of legal innocence rather than a validation of the state’s practice of capital punishment.

Far more could be – and has been – said on these three NT passages. Other NT passages that appear to uphold the authority of the state (e.g. 1 Peter 2:13-17) are sometimes articulated as justification for the continued retention of capital punishment.<sup>16</sup> It is fair to say, however, that every biblical text relating to the subject of the death penalty is contested, either by those arguing for its abolition or those seeking its retention, and the complex issues of interpretation and application are far from being resolved, if indeed that is possible.

### Church teaching

Traditional church teaching on the death penalty has been strongly influenced by the church’s changing relationship with the state. Today, official Catholic teaching on capital punishment strongly favours abolition, although the Catechism of the Catholic Church affirms the right of the state to punish criminals with appropriate penalties “not

excluding in cases of extreme gravity, the death penalty.” One of the strongest and most articulate abolitionist voices is that of the US Conference of Catholic Bishops, whose work on this issue is well received in Australia, principally among Catholics and human rights workers.<sup>17</sup>

Protestant teaching today is somewhat divided on the issue of capital punishment, with most US commentary supporting retention (or reintroduction) of the death penalty, often on the grounds of secular arguments bolstered by biblical teaching. For example, in his treatment of the issue, the even-handed ethicist Scott Rae outlines the major secular arguments for and against capital punishment, and then considers how the biblical teaching contributes to the issue. There is far less interest in the debate in Britain. John Stott’s classic evangelical apologetic for social action, *Issues Facing Christians Today*, now in its fourth edition, is uncharacteristically silent on the subject capital punishment.<sup>18</sup> It should be noted, however, that Article 37 of the Church of England’s Thirty-Nine Articles declares that “the Laws of the Realm may punish Christian men with death, for heinous and grievous offences.”

In 2007 the Uniting Church in Australia clarified its position on the death penalty as part of a wide-ranging statement on human rights. In particular:

We declare our opposition to capital punishment and commit ourselves to stand against the death penalty wherever it exists, regarding it as a cruel and inhuman punishment which denies the ability of an offender to reform.<sup>19</sup>

Australian Baptists have generally reflected popular progressive opinion on capital punishment, in line with the historic Baptist tradition of liberty of conscience. In 1989, for example, the Baptist Union of NSW expressed its opposition to capital punishment on the basis of a consistent life ethic (see below), but only with respect to holding political, religious and moral convictions.<sup>20</sup>

There is growing opposition to capital punishment in democratic societies, and this shift is reflected to some extent in the church. As David McLean observes, “If there has been a shift in the balance of Christian thought on the matter, it must be admitted that it has tended to follow rather than lead informed opinion.”<sup>21</sup>

### Arguments for the death penalty

This and the following section outline some of the key arguments for and against the death penalty from a social perspective, along with balancing or

critical responses where appropriate. The list of arguments and points of view are not exhaustive, and generalisations are inevitable. As noted above in relation to the biblical material, much more could be said.

*Justice demands retribution, not rehabilitation.* Criminals are responsible moral agents, not sick patients. The object of justice is not rehabilitation but the righting of wrongs. The punishment should fit the crime, reflecting its severity – no more, and no less, than is justified by a morally sensitive society. If the doctrine of “a life for a life” is accepted, then capital crimes deserve capital punishment, and there is no place for rehabilitation or reform but only for a just punishment. A related argument is that criminals sentenced to life imprisonment can be paroled and those who are often reoffend. On the other hand, as social researcher Hugh Mackay remarked recently, “We don’t steal from thieves as a way of punishing them. We don’t crash cars into the cars of reckless drivers. We don’t con con men. We don’t rape rapists. Why should we want to kill killers?”<sup>22</sup> Mackay also observes that, “although the punishment [may appear] to fit the crime, it actually matches the crime in its murderous, clanging disregard for human life.”<sup>23</sup> Further, it is widely recognised that when family members of a murder victim call for “justice,” they may well be seeking nothing more than the reflexive response of revenge – which is not the same as just retribution.

*Expresses society’s outrage at heinous crimes.* Some crimes are so outrageous or monstrous that a society – and the judiciary – must have recourse to the ultimate penalty. Thus Charles Colson, once an abolitionist, welcomed the execution of pre-9/11 US terrorist Timothy McVeigh: “Just deserts, in some extreme cases, demand extreme punishment.”<sup>24</sup> Many Australians share the same sentiment with respect to the Bali bombers, and no doubt others also.

*Deterrent against crime.* Since the fear of death is virtually universal, the death penalty is seen as an unparalleled deterrent for people planning a capital offence such as murder or drug trafficking. However, the deterrent argument obviously does not apply to crimes of passion, and there are other deficiencies. For example, statistically there is no relationship between capital punishment and the murder rate in retentionist societies. An anonymous author has suggested a way to settle the question of whether the death penalty is an effective deterrent: enact a law making murders committed on Tuesdays, Thursdays and Saturdays punishable by death, and those committed on other days punishable by life imprisonment – and see what happens. Yet even if we agree that the death penalty is an inefficient deterrent, we are still faced

with the question of who should get the benefit of the doubt – potential victims or convicted murderers? Scott Rae concludes that “in light of the ambiguity of the ability of the death penalty to deter killers, society should retain the death penalty rather than unnecessarily risk the lives of potential murder victims who may die if a potentially effective deterrent is abolished.”<sup>25</sup> Those who focus on the deterrent aspect also need to consider C.S. Lewis’s observation that if deterrence is the primary justification of criminal punishment, then “it is not absolutely necessary that the man we punish should even have committed the crime.”<sup>26</sup>

*Capital punishment is more cost-effective for the state.* The cost of the appeals process is usually substantially less than the cost of a life term in prison. Therefore it is in the state’s interest to execute rather than incarcerate capital offenders. Naturally costs vary from country to country, but as Scott Rae observes, “the debate over capital punishment involves much more than the ‘bottom line,’ but the argument frequently advanced by abolitionists, that the death penalty is very expensive due to the exhaustive appeals that are normally pursued, needs to be compared with the actual costs associated with a life term in prison.”<sup>27</sup>

### Arguments against the death penalty

*Violates human dignity and cheapens human life.* When the state kills one of its citizens, it declares a diminished value on human life. To apply the death penalty to anyone for any crime is at best an ironic way of upholding the doctrine of the sanctity of life. As Catholic philosopher James J. Megivern puts it, “Every human being is a person. Every person has universal, inviolable, inalienable rights. Basic to all other rights is the right to life. This right cannot be forfeited by misconduct. Thus everyone has a right not to be killed. Therefore the state has no right to kill.”<sup>28</sup> Some retentionists argue, conversely, that capital punishment affirms human dignity because punishment is a compliment and not an insult to a person’s dignity.<sup>29</sup>

*Bias of race, geography and quality of legal representation.* Historically, and most notably in the US, a disproportionate number of people are executed who are black, poorly educated and members of the lower socioeconomic classes. One reason advanced for this is that wealthier, white and well-educated persons are better able to secure and pay for quality legal representation – although this is not always true. The situation was similar in Australia up to 1967, with recent European immigrants disproportionately represented among those executed.

*Mistakes are irreversible.* Where a person's life is extinguished, and later evidence proves their innocence, the miscarriage of justice cannot be rectified. As Scott Rae notes, "The death penalty has no room for second thoughts or for correcting mistakes that are an inevitable part of an imperfect judicial system."<sup>30</sup> Examples of judicial mistakes in capital cases are well documented. In the US, 123 death row inmates were released between 1973 and 2006 after new evidence emerged to establish their innocence.<sup>31</sup>

*Reform is impossible.* The execution of a convicted criminal necessarily removes the prospect of his or her rehabilitation. In addition, those who remain on death row long enough to be rehabilitated are still executed, even though they might have become productive members of society. Retentionists will often argue that the purpose of the justice system is not rehabilitation or reform but retribution.

*Death sentences are costly to the state and entail long and costly appeals.* In modern democratic societies there is a significant financial cost associated with convicting and incarcerating a prisoner, ensuring that due process is followed, and finally executing the person. Abolitionists often argue that life imprisonment is a cheaper alternative as well as being more just. Retentionists may claim that execution is actually more cost effective than life imprisonment. A related matter is that prisoners will often spend years on death row waiting for execution, hoping for a successful appeal. In the US, it is not uncommon to spend more than 20 years on death row (the longest, as at the end of 2006, was Ronald Chambers who had been on death row 31 years). The problem has become so acute in the US that the most common cause of death on death row is now old age.<sup>32</sup> Some retentionists may see this extended and costly process as the best way to ensure that justice is done in an imperfect world; abolitionists may see it as constituting unnecessary and vindictive suffering.

*Capital punishment celebrates violence.* A society that executes criminals is a society that not only condones but celebrates violence. Abolitionists challenge the connection between violence and justice as illogical. Retentionists view the violence of capital punishment as the price of justice for capital offences.

*Better alternatives for punishing criminals and protecting society.* Abolitionists reject capital punishment as unjust and inhumane, even when compared to long prison sentences without parole. The prospect of a life sentence is thought to be more dreaded than execution. In addition, the urgent emotive demand sometimes made by political and media representatives, that an individual must be killed to

make society safe, may appear illogical and manipulative with the benefit of hindsight. As Hugh Mackay notes, "the punishment fits the crime when its severity matches the severity of the crime, not when it reproduces the crime."<sup>33</sup>

*Consistent life ethic.* Some who strongly advocate the death penalty also strongly protest abortion and euthanasia. A consistent life ethic applies the doctrine of the sanctity of life to all situations. It has been defined as "a moral commitment to respecting, protecting and enhancing human life at every stage and in every context."<sup>34</sup>

## Conclusion

This background paper has discussed recent Australian events relating to capital punishment, briefly considered the teaching of the Bible and the church on the death penalty, and outlined key arguments for and against capital punishment. Some suggestions for further reading are listed below.

It is evident that one's political, philosophical, social and religious background and convictions all play a part in forming one's view on the issue of the abolition or retention of capital punishment. History and geography also play a significant part, as the quite different discourses in the US and Australia illustrate. For Christians, there is also the difficult matter of Scriptural authority and interpretation, and the application of biblical teaching to present concerns. All of these factors together ensure that debate on capital punishment will continue into the foreseeable future.

It is unlikely that new ways of reading Scripture will disclose previously hidden truths on the subject. Likewise, it is improbable that new philosophical or practical arguments relating to the death penalty will appear. As Barry Jones observed in a chapter on the death penalty in his recent autobiography, after Cesare Beccaria (the Milanese philosopher who published *On Crimes and Punishments*, an extraordinary – and counter-cultural – condemnation of torture and the death penalty in 1764), no new arguments have been forthcoming.<sup>35</sup>

It is likely, however, that each new execution by a state, publicised by the world's media, will lead to additional action and reflection on the subject by many. It is also likely that, if terrorism continues to grow in frequency and scope, and especially if terrorism occurs on Australian soil and the perpetrators are apprehended, there will be fresh calls by Australian citizens – and by opportunistic politicians – to reintroduce the death penalty in Australia.

## Further reading

### Books

- Estelle Blackburn, *Broken Lives* (Claremont, WA: Stellar Publishing, 1998).
- Roger Hood, *The Death Penalty: A worldwide perspective* (third edition; Oxford: Clarendon Press, 2002).
- Christopher D. Marshall, *Beyond Retribution: A New Testament vision for justice, crime, and punishment* (Grand Rapids: Wm B. Eerdmans, 2001).
- James J. Megivern, *The Death Penalty: An historical and theological survey* (New York: Paulist Press, 1997).
- Erik C. Owens, John D. Carlson & Eric P. Elshtain (eds), *Religion and the Death Penalty: A call for reckoning* (Grand Rapids: Wm B. Eerdmans, 2004).
- Xavier Waterkeyn, *Death Row: Profiles of people who face the ultimate penalty* (Sydney: New Holland, 2006).

### Articles

- C.S. Lewis, "The humanitarian theory of punishment," in Lesley Walmsley (ed.), *C.S. Lewis Essay Collection: Literature, philosophy and short stories* (London: Harper Collins, 2000), pp. 290-301; available at <http://kzoo.edu/~petersen/teaching/lewis.html>.
- Michael Walton, "The death penalty in Australia and overseas," NSW Council for Civil Liberties Background Paper 2005/3, dated 29 March 2005, available at <http://www.nswccl.org.au/docs/pdf/bp3%20005%20dp%20paper.pdf>.

### Other media

- Dead Man Walking*, a film starring Susan Sarandon and Sean Penn, directed by Tim Robbins (MGM, 1995).

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- <sup>2</sup> Amnesty International, "Facts and figures on the death penalty," dated 6 Feb 2007, available at <http://web.amnesty.org/pages/deathpenalty-facts-eng>.
- <sup>3</sup> NSW abolished the death penalty for murder in 1955 but retained capital punishment for treason and piracy until 1985.
- <sup>4</sup> Amnesty International, "The death penalty," n.d., available at <http://web.amnesty.org/pages/deathpenalty-index-eng>.
- <sup>5</sup> Michael Walton, "The death penalty in Australia and overseas," NSW Council for Civil Liberties Background Paper 2005/3, p. 12, dated 29 March 2005, available at <http://www.nswccl.org.au/docs/pdf/bp3%202005%20dp%20paper.pdf>.

<sup>6</sup> Annabel Crabb, "Hicks to escape the death penalty," *The Age*, 24 Jul 2003, available at <http://www.theage.com.au/articles/2003/07/23/1058853136048.htm>.

<sup>7</sup> Walton, "The death penalty," p. 14.

<sup>8</sup> Quoted in Brett Bowden, "Questioning the death penalty," <http://www.onlineopinion.com.au/print.asp?article=3912>, dated 6 Dec 2005.

<sup>9</sup> *Ibid.*

<sup>10</sup> For example, see the results of an online poll, "Swinging voters," *The Bulletin*, 7 Mar 2006, pp. 27-28.

<sup>11</sup> Christopher D. Marshall, *Beyond Retribution: A New Testament vision for justice, crime, and punishment* (Grand Rapids: Wm B. Eerdmans, 2001), p. 214.

<sup>12</sup> Scott B. Rae, *Moral Choices: An introduction to ethics* (second edition; Grand Rapids: Zondervan, 2000), p. 223.

<sup>13</sup> Davis, *Evangelical Ethics*, p. 207.

<sup>14</sup> Rae, *Moral Choices*, pp. 220f illustrates the former; Norman Geisler, *Christian Ethics: Options and issues* (Grand Rapids, MI: Baker Book House, 1989), pp. 205-207 illustrates the latter.

<sup>15</sup> On the interpretation and relevance of OT laws to the church see William W. Klein et al, *Introduction to Biblical Interpretation* (Dallas: Word Publishing, 1993), pp. 278-283 (which summarises C.J.H. Wright's helpful alternative to the traditional categories of civil, ceremonial and moral laws); and M.J. Selman, "Law," in T. Desmond Alexander & David W. Baker (eds), *Dictionary of the Old Testament Pentateuch* (Downers Grove: IVP, 2003), pp. 497-515 (especially pp. 513f).

<sup>16</sup> For a detailed discussion of the biblical teaching from an abolitionist perspective see Marshall, *Beyond Retribution*, pp. 201-254; for a retentionist perspective see Geisler, *Christian Ethics*, pp. 193-213.

<sup>17</sup> See, for example, "A culture of life and the penalty of death: A statement of the United States Conference of Catholic Bishops calling for an end to the use of the death penalty," dated 2005, available at <http://www.usccb.org/sdwp/national/penaltyofdeath.pdf>; also various articles published in the Catholic opinion journal *First Things*, available at <http://www.firstthings.org>.

Perhaps the best Australia Catholic contribution is Michael Costigan, Catholic Social Justice Series Paper No 40, *The Death Penalty: Why Catholics Should Oppose it*, (ACSJC, 2000).

<sup>18</sup> Grand Rapids: Zondervan, 2006.

<sup>19</sup> *Dignity in Humanity: Recognising Christ in Every Person. A Uniting Church in Australia statement on human rights*, [http://assembly2006.uca.org.au/\\_data/assets/file/2421/b29\\_human\\_dignity\\_statement.pdf](http://assembly2006.uca.org.au/_data/assets/file/2421/b29_human_dignity_statement.pdf), n.d. [March 2007?].

<sup>20</sup> Rod Benson (ed.), *Here We Stand: NSW Baptists and contemporary social issues* (second edition; Glebe, NSW: Baptist Union of NSW, 2004), web-based version available at

<sup>21</sup> David McLean, "Capital punishment," in Adrian Hastings et al (eds), *The Oxford Companion to Christian Thought* (Oxford: Oxford University Press, 2000), p. 97.

<sup>22</sup> Hugh Mackay, "Chink appears in armour against death penalty," *The Sydney Morning Herald*, 13-14 Jan 2007.

<sup>23</sup> *Ibid.*

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<sup>24</sup> Charles Colson, Preserving the dignity of man: The case for capital punishment,” BreakPoint Commentary no. 010608, available at

<http://www.leaderu.com/socialsciences/colson-dignity.html>.

<sup>25</sup> Rae, *Moral Choices*, p. 213.

<sup>26</sup> C.S. Lewis, *God in the Dock* (Grand Rapids: Wm B. Eerdmans, 1970), p. 291.

<sup>27</sup> Rae, *Moral Choices*, p. 214.

<sup>28</sup> James J. Megivern, *The Death Penalty: An historical and theological survey* (New York: Paulist Press, 1997), p. 487.

<sup>29</sup> Norman Geisler, for example, argues this point in his *Christian Ethics, op. cit.*, p. 198.

<sup>30</sup> Rae, *Moral Choices*, p. 216.

<sup>31</sup> David Nason, “Time running out for a cruel and unusual punishment,” *The Weekend Australian*, 30-31 Dec 2006.

<sup>32</sup> Nason, “Time running out.”

<sup>33</sup> Mackay, *op. cit.*

<sup>34</sup> David Gushee, “The consistent ethic of life,” in David Oki Ahearn & Peter R. Gathje (eds), *Doing Right and Being Good: Catholic and Protestant readings in Christian ethics* (Collegeville, MN: Liturgical Press, 2005), p. 249.

<sup>35</sup> Barry Jones, *A Thinking Reed* (Sydney: Allen & Unwin, 2006), p. 84.

All Scripture references are from the New Revised Standard Version.