

Unitarian Universalist Fellowship of Bellport

Sunday, October 23, 2005
How Justice is Served

The Rev. Alison Cornish

I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. From this day forward, I no longer shall tinker with the machinery of death.

- U.S. Supreme Court Justice Harry A. Blackmun

Opening Words

We have come into this room of hope where our hearts and minds are opened to the future. We have come into this room of justice, where we set aside our fear, to freely name every oppression.

We have come into this room of love, where we know that no lives are insignificant.

We have come into this room of song, where we unite our voices in the somber and beautiful melodies of life.

We have come into this room.

We are here.

We are together.

Let us begin.

Reading Scott Turow, *Ultimate Punishment*

In college and graduate school, from 1966 to 1972, I adhered to the Aquarian faith of the era. I accepted the fundamental goodness of all people and accordingly regarded capital punishment as barbaric. By 1978, I'd become an Assistant United States Attorney in Chicago ... Over my years as a prosecutor, my view of human nature ... acquired a Hobbesian cast. I'd learned that people who commit crimes are, very often, engaged in an act of self-definition. They do not think much of themselves and they are inclined, as a result, to treat others cruelly. They lie for laughs and do violence, either as a business or because they are angry and it gratifies them ... My job as a prosecutor – and the sensible first response of society – was to make sure they didn't do bad things again. And I could see that a sentence of death was the most certain means to accomplish that goal in extreme cases. ... I did not force myself to justify capital punishment, just as I did not routinely question the wisdom of the RICO statute or the mail fraud or securities laws it was my job to enforce. But I could follow the will of my community on the issue.

The ten years I spent in the nineties on the defense side of capital cases taught me many cautionary lessons about the death penalty, but when [I was asked to serve] on the Commission, I still hung in sort of ethical equilibrium, afraid to come down on either side of the question of whether capital punishment was actually right or wise. Many of the traditional arguments against capital punishment had little traction with me. I respect the religious views

of persons who regard life as sacred, but I don't want government action predicated on anybody's religious beliefs. The simple principle that says "If killing is wrong, then the state shouldn't do it" has always struck me as just that – simple, too simple for the complexities of human conduct ... When people asked, I referred to myself as a death penalty agnostic. Every time I thought I was prepared to stake out a position, something would drive me back in the other direction.

“How Justice is Served”

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I have never read any of Scott Turow's best-selling novels, but I can say this: if someone can turn an account of the deliberations of a Governor's Commission on Capital Punishment into a page-turner, he must be an extraordinary writer. And he is – his slim volume *Ultimate Punishment* is a must read for anyone who takes seriously the subject of the Death Penalty.

Taking seriously the subject of the death penalty might sound like something most of us would rather not do – and yet, that's exactly what I'd like to explore this morning. To a certain extent, capital punishment is making a come-back in this country – in fact you might remember that last May, the State of Connecticut, just a few miles away, executed Michael Ross, the first execution to take place in Connecticut – or anywhere in New England – since 1960. Just prior to Connecticut's act, the New York State Assembly Codes Committee voted against reinstating the death penalty, narrowly defeating attempts by Governor Pataki and the State Senate to “fix” a fundamentally and constitutionally flawed death penalty statute. But those who have followed the issue know that we are far from done with this. Not everyone agrees with the words of Supreme Court Justice Harry Blackmun, quoted at the top of your Orders of Service - many people in this country believe there is merit in retaining capital punishment on the books. I am not one of them. I understand my faith – my Unitarian Universalism – as speaking loudly and clearly against the death penalty. In fact, our denomination has passed no less than five separate resolutions on capital punishment, the first at our very first General Assembly in 1961, the year Unitarians and Universalists merged.¹ And yet, in doing research and meditating on this issue over these past days, I found myself engaging some questions for the first time. My commitment to a moratorium, and eventual abolition of the death penalty, remains unchanged. Nonetheless, I have gained some insights into what that commitment means and entails – for me, and perhaps for others who oppose capital punishment.

The words of that first resolution passed by our denominational General Assembly bear repeating, for they name many of the fundamental issues that today, more than four decades later, still define this issue. The resolution read:

WHEREAS, respect for the value of every human life must be incorporated into our laws if it is to be observed by our people; and

WHEREAS, modern justice should concern itself with rehabilitation, not retribution; and

WHEREAS, it has not been proved that fear of capital punishment is a deterrent to crime; and

WHEREAS, capital punishment has not always been used impartially among all economic and racial groups in America;

¹ “Summary of Resolutions on Capital Punishment, found at www.uua.org/uuawo/new/article.php?id=47.

THEREFORE BE IT RESOLVED: That the Unitarian Universalist Association urges its churches and fellowships in the United States and Canada to exert all reasonable efforts toward the elimination of capital punishment.

The resolution concluded with a commitment to distribute copies “to Governors of all states in which capital punishment has not yet been eliminated.”

What an extraordinary opening statement to make at the first General Assembly of the UUA! Later resolutions either reiterated what had already been resolved, or addressed the additional issues of the execution of minors and those who are mentally retarded.

Unitarian Universalists are in the company of the vast majority of religious groups that have weighed in on the issue in this country – some of whom you might expect to see on the list, such as the Buddhist Peace Fellowship, the Mennonite Central Committee, the U.S. Conference of Catholic Bishops, and the Friends United Meeting. But taking a closer look, you’ll also find significant numbers of Christian faith groups, including the American Baptist Church, USA and the Evangelical Lutheran Church in America; as well as the National Council of Synagogues, and Mormons for Equality and Social Justice. (The two religious groups that have expressed support for the death penalty are the National Association of Evangelicals and the Southern Baptist Convention.)

Now, you might have caught some words in the reading from Scott Turow’s book a few minutes ago that are appropriate to revisit here – he says, “I respect the religious views of persons who regard life as sacred, but I don’t want government action predicated on anybody’s religious beliefs.” In fact, most of us here today have probably made similar statements ourselves – and not quietly, either. Yet the UUA’s resolutions, like those of so many other traditions, do just that – they take a religious stand on an issue controlled by the government. So the first question that must be asked in the context of discussing any Unitarian Universalist position on the death penalty must be – why? Why should a religious community “weigh in”?

The answer, I believe, lies somewhere in the murky fog that obscures the fact that there really isn’t – and perhaps cannot be – a total and complete separation of religion and government, especially when it comes to moral issues. Here are some excerpts from the Interfaith Statement on Capital Punishment written by the New York Religious Leaders Against the Death Penalty.² Can you sort out religious concepts from those of justice administered by the state? They say:

- Retribution is proper in society; revenge is not. Revenge is retribution without moral limit. While violent crimes must have severe retributive consequences, we firmly believe that our scriptural traditions require us to oppose the violence of state-sanctioned death as a form of punishment.

² “New York Religious Leaders Against the Death Penalty: Interfaith Statement on Capital Punishment,” in Amnesty International, *2005 Faith in Action Resource Guidebook*, available at www.aiusa.org/faithinaction

- All people are capable of atonement and forgiveness. It is our belief that no person is beyond either the human community or God's embrace. It is our firm conviction that forgiveness is compatible with justice but never with vengeance.
- The death penalty is not, and probably cannot be, applied equitably and fairly. Too often it is not the crime itself but such factors as race, economics, geography, politics, or the defendant's mental capacity that are ultimately significant in determining the application of the death penalty. There is a misplaced faith in the perfectibility of the death penalty.
- The death penalty is not the source of healing for the families of murder victims. To the argument that the families of murder victims desire to see capital punishment inflicted on those who have plunged them into their deep pain and grief, we say that it is our pastoral experience that such suffering cannot be healed simply through capital punishment. Often healing takes time and is the outgrowth of personal struggle and community support, as well as faith.

I see a complete interweaving of values of importance to us as Unitarian Universalists – inherent worth and dignity of every individual – justice, equity and compassion in human relations – the right of conscience – the interdependent web – with jurisprudence. Yet, if we hold that, as religious peoples, we have the right (even the responsibility) to weigh in on these matters, even sending letters and resolutions on our letterhead to governors, then we must hold that right for all religious peoples. In other words, I wonder if we draw the line between government and religion when it is convenient for us – or when we feel particularly righteous – yet at other times call for a strict separation of institutions. Opposition to the death penalty has brought together a diverse group of religious peoples, and, I believe, created a powerful voice for the end of capital punishment. Asserting the dividing line between religion and state would silence this chorus. Is it worth it when it comes to capital punishment? Or opposition to war? Or for a host of other issues that live in that fog? So one new question generated for me by this study is this – what is possible, even desirable, in separating government and religion?

In his book, Scott Turow touches briefly on several aspects of capital punishment that underpin the actual laws. Among these, he poses these questions:

What do we think about the perfectibility of human beings and the perdurability of evil? What value do we place on life – of the murderer and of the victim? What are the goals of punishment?

These are questions that go untouched by the pollsters who simply ask, “do you support the death penalty?” generating statistics that guide policy-makers. But I fear these questions also go untouched by the majority of both proponents and opponents of capital punishment, who too often resort to slogans and shorthand to support their case. What worries me is that we, as Unitarian Universalists, may also be a part of this group.

Take the question of perfectibility of human beings. Our Unitarian tradition supports an “upward and onward” progressive development theory of human morality, beginning in 1838 with William Ellery Channing's sermon “Self-Culture.” The idea was well developed by Unitarian (and Universalist) leaders of the Social Gospel movement at the tail end of the 19th

century, and shaped yet again by Humanists who so influenced our 20th century history. Even the words of our 1961 resolution, “modern justice should concern itself with rehabilitation, not retribution,” carry this idea of positive human potential. And in the latest survey of Unitarian Universalists, 90% of respondents agreed with this statement: “Humans are born with the potential to be good; we are committed to nurturing the good through love and learning.”³

But how are these ideas to be reconciled with the reality of our times, and particularly with those who commit the crimes that most outrage the conscience of the community? Truth is, saying that “we affirm and promote the inherent worth and dignity of every person” is insufficient theology. It is, in Turow’s words, too simple for the complexities of human conduct. I think we know that, yet we resist going deeper into our theology to wrestle with the issue. So, another question generated by this study is this – if we are to take a stand on issues such as capital punishment, are we willing to make the commitment to a deeper exploration into our theology to get beyond simplistic statements? Are we willing to take a long look at our tradition and question its validity for these times and all people? Such questions are not limited to this subject – too often, I think, in framing our ethical dilemmas we begin – and end - with our seven principles and purposes.

Last week, in preparation for this service, I watched the movie “Dead Man Walking,” based on the story of Sister Helen Prejean and her encounters with an inmate on death row in Louisiana. Drawing on Sister Helen’s book of the same name, the film is a powerful depiction of the various entities involved in capital punishment – the penal system, the surviving family members, the justice system, the religious – as well as the perpetrator and his family. Rarely do all sides of this issue receive such even-handed treatment. And it was in watching the circumstances that put Sister Helen in the center of that story that this dilemma came to me: It is one thing to say “I don’t believe in capital punishment,” and yet it is quite another to live that belief in the midst of an unfolding story with real people on all sides. How can we know that what we believe in the abstract will be sustained by the reality?

In fact, as the movie first unfolds, it’s not clear that Sister Helen holds any view of the death penalty. She’s engaged in her work, teaching and caring for the poor, when a letter arrives for someone, anyone, to help an inmate file an appeal for a new trial. And from there, she is drawn into this world – talking with the condemned man – attending the hearing that identifies the missteps and biases of his trial – engaging the prison staff in conversation – standing vigil outside the prison gates when another inmate is executed – and, eventually, talking with the parents of the victims while at the same time serving as the spiritual advisor to the inmate. Through her eyes, we, the viewers, see inside a system that most of us will never know first-hand.

After watching this movie, the question that rose up in me was this: what does opposing the death penalty really mean? Are there ways, short of becoming one of the players engaged in this work, to live the words in our resolutions and petitions? For, after watching this movie, such efforts seemed far too insignificant.

³ Commission on Appraisal of the UUA, *Engaging Our Theological Diversity* (Boston: UUA, 2005) 75.

My response is a “Declaration of Life” developed by the Unitarian Universalists for Alternatives to the Death Penalty. It allows you to make a statement that, that should you die as a result of a violent crime, you request that the person or persons found guilty of homicide for your killing not be subject to or put in jeopardy of the death penalty under any circumstances, no matter how heinous their crime or how much you may have suffered. It asks us to project ourselves into the future – to reduce the abstraction and contemplate the reality. To my mind, this is one important step beyond signing a petition or sending a letter opposing the death penalty. It asks that we take a definite and personal stand, one that, hope against hope, will never be necessary.

The real power of this document, I think, comes in contemplating what it says, and then, should you be willing to sign it, sending a signed copy to each entity named in the document along with a letter outlining your reasons for doing this. Send it to the District Attorney. Send it to the Governor. Send it to your family, and your friends, and your lawyer. Open the conversations with those around you, and with those in power.

Because what this document says, in the most direct way possible, is this - “not in my name.” You are literally requesting – nay, in the words in the document, “pleading, praying” that the state not kill “in your name.”

For that is the bottom line in capital punishment, one too often missed. Opposition to the death penalty sometimes looks like a group of “do-gooders” stepping into situations where we have no direct involvement or investment. Yet ... we do. Because the death penalty is carried out in all our names – as citizens, and as fellow human beings. “Not in our name” starts with just one person signing a “Declaration of Life.” I hope you will join with me in making “not in our name” a chorus of people of all religions, all backgrounds, and all ages.

Closing Words (Martin Luther King, Jr.)

The ultimate measure of a person is not where one stands in moments of comfort and convenience, but where one stands at times of challenge and controversy.