

# THE MISSION OF GOD, RESTORATIVE JUSTICE, AND THE DEATH PENALTY

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## Overview

The purpose of this essay is to advance the argument that the mission of the Christian church is to carry out the mission of God by (1) reforming the criminal justice system in the United States to embody the principles of restorative rather than retributive justice and (2) abolishing capital punishment. After the presentation of these arguments, the final section will suggest steps that church congregations could take to work toward these goals.

## The Mission of God and the Mission of the Church

The essence of God's character is love. When asked what God most desires of human beings, Jesus replied, "'Love the Lord your God with all your heart, and with all your soul, and with all your mind.' This is the greatest and first commandment. And a second is like it: 'You shall love your neighbor as yourself'" (Matt 22:37-40 NRSV). God is also missionary by nature, actively and purposefully engaging with human beings to draw them into participation in divine love: "Everyone who loves is born of God and knows God. Whoever does not love does not know God, for God is love" (1 John 4:7-8). Jesus described the divine mission in more concrete terms, telling listeners in the synagogue that the Lord "has anointed me to

bring good news to the poor. He has sent me to proclaim release to the captives and recovery of sight to the blind, to let the oppressed go free, to proclaim the year of the Lord's favor" (Luke 3:18-19). The reign of God, then, is a community in which people treat each other with respect and dignity and care for those in distress.

God has entrusted the church to continue the divine mission. Immediately after his resurrection, Jesus visited his disciples and instructed them to leave the house where they were hiding and participate in establishing the reign of God: "'Peace be with you. As the Father has sent me, so I send you.' When he had said this, he breathed on them and said to them, 'Receive the Holy Spirit. If you forgive the sins of any, they are forgiven them; if you retain the sins of any, they are retained'" (John 20:21-23). Followers of Jesus are therefore called to live as witnesses to the gospel, exemplifying God's love and acting as a sign, instrument, and foretaste of the reign of God. The church must intentionally and energetically involve itself in building an inclusive, peaceful community that foreshadows the more perfect one that God will create in the eschatological future.

Additional biblical passages make it clear that God expects the church to help people who suffer. For example, Jesus told a story describing the behavior of individuals who are blessed by God and who will inherit eternal life. In the story, the king tells those "righteous" individuals, "I was hungry and you gave me food, I was thirsty and you gave me something to drink, I was a stranger and you welcomed me, I was naked and you gave me clothing, I was sick and you took care of me, I was in prison and you visited

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me” (Matt 25:35-36). When his listeners react in puzzlement, the king clarifies that “just as you did it to one of the least of these who are members of my family, you did it to me” (Matt 25:40). It is interesting that Jesus’s words instruct his followers to assist and comfort not only people who have perhaps experienced adversity through a random twist of fate but also those who may have ended up in prison by deliberately committing crimes. How should Christians understand our mission with regard to convicted offenders, especially in light of the fear and anxiety caused by worries about the crime rate? As theology professor Christopher Marshall acknowledged, “When we are confronted with rape, murder, home invasions, and child abuse, familiar platitudes about hating the sin yet loving the sinner seem pitifully inadequate.”<sup>1</sup> Out of concern for the safety and security of ourselves and our loved ones, we more often react to offenders with anger and a desire for retribution than with compassion. Christians who are serious about joining in the mission of God, however, are called to think through the characteristics of our criminal justice system and decide which ones best align with the ethics of love, redemption, and restoration. The next section compares two alternative frameworks.

### **Retributive Versus Restorative Justice**

The criminal justice system in the U.S. (and other nations) rests on the principles of retribution. Crimes are defined as violations of laws. When crimes occur, the goals are to identify, arrest, convict, and punish the offenders. Punishment is applied because it is what offenders “deserve,” and victims have little or no voice within the process.

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<sup>1</sup> Christopher D. Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, Studies in Peace and Scripture (Grand Rapids, MI: William B. Eerdmans Pub, 2001), 1.

The emphasis on retributive justice has led to a broken system. The incarceration rate in the U.S. is currently the highest in the world, thanks mostly to a practice of targeting minority drug offenders.<sup>2</sup> Sometimes innocent people are imprisoned or even executed.<sup>3</sup> Moreover, prison environments dehumanize and degrade their inmates, for example through unreasonable policies or unfair application of the rules. In her book about the need for prison reform, Jennifer McBride described inmates’ accounts of being denied basic necessities, such as lunch on weekends or hygiene products, or of having permission to make a phone call revoked for no reason.<sup>4</sup> Abuse of this sort does little to help offenders rejoin society, as the vast majority eventually will.<sup>5</sup>

Some reformers have noticed that our adversarial legal system leads offenders to look to their own welfare instead of empathizing with their victims, understanding the consequences of their actions, and acknowledging their responsibility. According to criminologist Howard Zehr, the “rationalizations that offenders often use to distance themselves from the people they hurt are never challenged. Unfortunately, then, the sense of alienation from society felt by many offenders is only heightened by the legal process and by the prison experience.”<sup>6</sup> In the interest of helping victims and offenders,

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<sup>2</sup> Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. (New York: New Press, 2010), 6-7.

<sup>3</sup> “Innocence Project - Help Us Put an End to Wrongful Convictions!,” *Innocence Project*, n.d., <https://www.innocenceproject.org/>.

<sup>4</sup> Jennifer M. McBride, *Radical Discipleship: A Liturgical Politics of the Gospel* (Minneapolis: Fortress Press, 2017), 59.

<sup>5</sup> “Bureau of Justice Statistics Reentry Trends in the U.S.: Highlights,” n.d., <https://www.bjs.gov/content/reentry/reentry.cfm>.

<sup>6</sup> Howard Zehr, *The Little Book of Restorative Justice*, The Little Books of Justice & Peacebuilding (Intercourse, PA: Good Books, 2002), 4.

as well as their communities, Zehr and others have proposed revising the system to place a much greater emphasis on restorative rather than retributive justice.

Restorative justice grows out of the understanding common in traditional societies that people are interconnected. Thus, the assumptions within this framework are that “(1) crime is a violation of people and of interpersonal relationships [as opposed to the breaking of a law], (2) violations create obligations, and (3) the central obligation is to put right the wrongs.”<sup>7</sup> Whereas retributive justice punishes offenders without really making them consider their accountability to others, restorative justice aims to persuade them to realize the harms caused by their behavior and to make amends as much as possible. Once that occurs, offenders can be reintegrated into their community. Clearly, this approach focuses on the concerns and needs of victims and communities.

Zehr has cautioned that getting victims to forgive offenders and reconcile with them is not a primary goal of restorative justice, although it creates a context in which victims can do so if they choose. Moreover, he does not advocate doing away with the current legal system, and restorative justice can actually coexist with the use of incarceration. Restorative justice is also not designed specifically to reduce recidivism. According to Zehr, “recidivism is an expected byproduct, but restorative justice is done first of all because it is the right thing to do” to address victims’ needs and to encourage offenders to take responsibility, “regardless of whether offenders ‘get it’ and reduce their offending.”<sup>8</sup>

The exact form that restorative justice takes can vary across communities and across cases. Regardless of which specific model is used, however, offenders must first

accept at least some responsibility. If there are victims who agree to participate, a victim-offender conference can be held, guided by a trained facilitator. A variation is the family group conference, to which members of the victim’s and offender’s family are invited, along with any other community members who have an interest in the proceedings. With both models, the meeting provides victims with the chance to tell their stories about the harm they experienced and how it has affected them. Offenders have an opportunity to acknowledge causing the harm. All parties can then discuss issues such as specific steps offenders might take to make amends and how they can rejoin the community. In some cases, the offender’s sentence can be adapted to the needs of the victim and the community (e.g., financial restitution or community service).

In cases in which it is impossible or impractical for victims to attend a conference, or when victims refuse, victim-impact panels can meet with offenders to help them understand the effects of their behaviors. The panels are composed of individuals who have been the victims of the same or similar crimes as those committed by the offenders.

Obviously, restorative justice conferences will not work in every criminal case. As Zehr has pointed out, some situations are “too difficult or horrendous.”<sup>9</sup> However, research generally supports the usefulness of restorative justice models. For example, Lawrence Sherman and Heather Strang reported several positive results in their review of 36 studies conducted in the U.S., Canada, Australia, the United Kingdom, and New Zealand that looked at various aspects of restorative justice.<sup>10</sup> Most

<sup>7</sup> Zehr, *The Little Book of Restorative Justice*, 17.

<sup>8</sup> Zehr, *The Little Book of Restorative Justice*, 8.

<sup>9</sup> Zehr, *The Little Book of Restorative Justice*, 60.

<sup>10</sup> Lawrence W. Sherman and Heather Strang, *Restorative Justice: The Evidence* (London: The Smith Institute, 2007).

of these studies examined models that included family group conferences as well as court-ordered financial restitution. Sherman and Strang concluded that, compared to standard criminal justice procedures, restorative justice can increase victims' and offenders' satisfaction and sense of justice, decrease victims' desire for violent revenge against offenders, and mitigate victims' post-traumatic stress symptoms. Furthermore, when used as a form of diversion from the criminal justice system, restorative justice can decrease court costs, costs associated with imprisonment, and the medical costs of treating victims' physical injuries and psychological symptoms. Analyses revealed that restorative justice seems to be more effective as the seriousness of the crime increases, as well as with violent crimes versus property crimes and with offenses involving personal victims.

In one of the cases described by Sherman and Strang for the purposes of illustration, a man named Bob hunted down Sam, an acquaintance, and beat him severely for sexually assaulting Bob's girlfriend while Bob was in prison. Sam lost his front teeth, suffered several broken bones, and nearly died from the attack. Instead of being returned to prison, Bob was allowed to participate in a restorative justice conference under the auspices of the Australian National University's Reintegrative Shaming Experiments (RISE) Project. Although the project's conferences normally involve the victim's and offender's families and friends, neither Sam nor Bob had anyone willing to come with them except Joe, a church pastor who knew the men because he worked with drug users, and both were heroin addicts. For the first hour of the conference, Bob showed no remorse for attacking Sam and stood by his assertion that he was morally correct in doing so. Sam, although he admitted the sexual

assault, only wanted to complain about his injuries and the large sum of money he would need to have his teeth fixed. Both men had a motivation to reach some form of agreement, though. Bob wanted to avoid going back to prison, and Sam disliked the idea of constantly living in fear of his next encounter with Bob on the street. So, Joe offered a proposal in which Bob would stay 500 meters away from Sam, including when they were both visiting their mutual drug dealer, and Sam would drop his demand for financial restitution. Both men agreed, and after five years neither had been arrested again.

Although restorative justice models (compared to incarceration) reduced recidivism in adult offenders in general, they were unsuccessful with a few. Sherman and Strang suggested that defiance theory may explain those cases. According to this theory, some individuals show extreme negative reactions to criticism from authority figures they perceive as illegitimate, and consequently they may actually commit more rather than fewer inappropriate behaviors in the future. These individuals are "disproportionately likely to be lacking in conventional 'stakes' in conformity, such as jobs, marriage, or respect of mainstream people" and may be hypersensitive to criticism due to early life trauma or abuse.<sup>11</sup> Most offenders, though, do not fall into this category, and overall empirical findings regarding the usefulness of restorative justice procedures are encouraging. The major strength of the framework may be its ability to help offenders see their crimes in the context of relationships. Jennifer McBride wrote about the changes she observed in inmates involved in a prison ministry that challenged them to rethink Western Christians' understanding of sin as "against God" rather

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<sup>11</sup> Sherman and Strang, *Restorative Justice: The Evidence*, 75.

than “against a neighbor.” One inmate, who was raised as Christian, admitted, “It was a switch for me to see sin not as something done against God only but as an evil done against humans with effects that continue long after the sinful act.”<sup>12</sup>

In addition to its successfulness when compared to the retributive justice inherent in our current system, restorative justice has the advantage of being consistent with Christian ethics. Christopher Marshall has argued that divine justice is restorative by nature.<sup>13</sup> The consequence of human sin is a rift between God and human beings, yet God’s reaction is to repair this rift instead of punishing or destroying the world’s people. Specifically, the death of Jesus on the cross generates justice in a way that forgives the guilty, overthrows the system of payback and revenge, and restores all believers to full covenant relationship. Moreover, according to Marshall, it is misguided to view Jesus’s death in terms of substitutionary atonement – that God demanded a penalty for sin, and Jesus stepped in for human beings and paid it. If that was the point, then resurrection would be rendered unnecessary. Yet Paul wrote that Jesus was “raised for our justification” (Rom 4:25), revealing God’s justice as a “dynamic, active power that breaks into situations of oppression and evil in order to bring liberation and restore freedom. Its basic concern is not to treat each person as each deserves but to do all that is necessary to make things right.”<sup>14</sup>

Turning from Jesus’s death to his teachings, it is evident that he valued relationships above “strict legal justice,” according to Marshall. For example, he counseled his followers to forgive not seven

times, as Peter suggested, but seventy-seven times (Matt 18:22). With these words, he “is not simply adjusting the arithmetic. He is ruling out all calculation when it comes to forgiveness.”<sup>15</sup> Additionally, he taught that people should refrain from retaliation and pray for their persecutors (Matt 5:38-48). Building on these teachings, the earliest Christians understood justice as “a power that heals, restores, and reconciles rather than hurts, punishes, and kills,”<sup>16</sup> as shown by Paul’s words: “My friends, if anyone is detected in a transgression, you who have received the Spirit should restore such a one in a spirit of gentleness” (Gal 6:1). Retribution, in contrast, has no interest in personal transformation or reconciliation. Its purpose is merely to punish wrongdoers under the assumption that they deserve to suffer for their transgressions. Whether they repent or not is irrelevant.

In sum, a restorative justice framework based on Christian ethics would hold offenders accountable for their actions but would also refuse to abandon them or permanently exclude them from their community. It would ask them to make amends and would call them to repentance, but it would acknowledge them as victims of sin as well as perpetrators. It would allow for the possibility of painful consequences for offenders, but it would not regard their suffering itself as the means of attaining justice.

### **“The Death Penalty is Inadmissible”**

For aggravated homicide and certain federal offenses (e.g., treason, using a weapon of mass destruction), our retributive criminal justice system prescribes the

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<sup>12</sup> McBride, *Radical Discipleship: A Liturgical Politics of the Gospel*, 135.

<sup>13</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*.

<sup>14</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, 67.

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<sup>15</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, 73.

<sup>16</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, 33.

punishment of death.<sup>17</sup> The application of this sentence, however, is inconsistent with the mission of God because (1) it fails to bring about positive social effects, (2) it actually produces negative consequences, and (3) it is explicitly incompatible with the mission of God, as discussed below.

Advocates of the death penalty claim that it produces positive effects, but it does not. Perhaps the leading justification for its existence is the argument that it deters crime. Obviously, an offender who has been executed can no longer commit crimes. However, there are other, less permanent, ways to incapacitate offenders, and additionally supporters of capital punishment are usually more interested in general deterrence than in the behavior of a single individual. Thus, questions about deterrence typically focus on crime rates. One way to address such questions is to look for changes in the homicide rate when a U.S. state adopts or abolishes the death penalty. If capital punishment deters people from committing murders, for example, the homicide rate should rise when a state legislature eliminates the death penalty or a state governor issues a moratorium on executions. Statistical analyses do not support this prediction, though.<sup>18</sup>

Another methodological approach involves comparing homicide rates in states that have the death penalty (e.g., Ohio) to rates in similar states that do not (e.g., Michigan). When using this design, researchers attempt to control for extraneous variables, such as unemployment and the number of law enforcement officers, that could potentially affect homicide rates. The results of the majority of these studies not

only fail to indicate a deterrent effect but also show that states with capital punishment tend to have *higher* murder rates.<sup>19</sup>

Some proponents have argued that it is unrealistic to expect the death penalty to deter all murders because not all murders are capital offenses. Perhaps potential killers are somehow knowledgeable about the law, and they restrain themselves when the circumstances of a homicide would steer them toward death row. Several studies have investigated murders of law enforcement officers in jurisdictions with and without the death penalty, which is useful because killing an officer is a capital offense in every death penalty state. Different investigations have looked at data from various decades and locations while statistically controlling for numerous variables, such as population density, the divorce rate, media coverage of executions, the percentage of the population on welfare, the race of the victims and offenders, and whether the murdered officers were on- or off-duty. No support for deterrence was found.<sup>20</sup>

As noted previously, some research indicates that, at least in certain situations, use of the death penalty may actually increase the homicide rate. Such results fit with the *brutalization hypothesis*, which states that executions may teach potential murderers that it is acceptable, even appropriate, to kill one's enemies.<sup>21</sup> In other words, when the state executes offenders who have broken the law, some individuals may conclude that they also have the right to

<sup>17</sup> Mark Costanzo and Daniel Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, Second edition. (New York, NY: Worth Publishers, 2015), 357.

<sup>18</sup> Costanzo and Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, 368.

<sup>19</sup> Costanzo and Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, 368.

<sup>20</sup> Costanzo and Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, 368.

<sup>21</sup> William J. Bowers, "The Effect of Executions Is Brutalization, Not Deterrence," in *Challenging Capital Punishment*, eds. Kenneth C. Haas and James A. Inciardi (Newbury Park, CA: Sage, 1988).

execute others who have done them wrong. The brutalization hypothesis postulates that lawmakers have miscalculated when they assumed that potential murderers would identify with executed offenders; instead, at least some identify with the state and see their victims as deserving death, just as executed individuals deserved death in the opinion of the state. Consequently, executions may inspire homicides rather than deter them.

Researchers have found support for several predictions that emerge from the brutalization hypothesis. For example, the murder rate ought to rise immediately after an execution while it is in the public eye but then drop back to baseline eventually. In fact, criminologist William Bowers' extensive review of multiple independent studies revealed an increase of one to four extra murders per week (on average) for the first four to eight weeks after an execution, followed by a return to the pre-execution rate.<sup>22</sup> Another finding consistent with the brutalization hypothesis is that the increase in the murder rate is relatively greater after executions that had more extensive media coverage.

Certain types of murders should be more influenced by executions. For example, researchers John Cochran, Mitchell Chamlin, and Mark Seth predicted that a recent execution should be especially likely to incite argument-related stranger homicides because potential murderers have no personal relationship with strangers that might inhibit violence.<sup>23</sup> Executions should have less of an effect on felony murders that occur during the commission of another crime, such as a robbery, because offenders

in these cases should be focused primarily on a goal other than murder and should be less likely to see the victims explicitly as enemies. Cochran and colleagues examined archival data of murders that occurred before and after the 1990 execution of Charles Troy Coleman in Oklahoma. Notably, it had been 25 years since Oklahoma had executed anyone. The data were generally consistent with the brutalization hypothesis. For instance, the researchers identified only two stranger homicides during the six weeks immediately prior to Coleman's execution but thirteen during the six weeks immediately afterward.

Besides deterrence, another proposed argument in favor of capital punishment is that it is more cost effective than keeping offenders in prison for lengthy periods of time. Actually, however, the death penalty costs more than life without parole.<sup>24</sup> For example, California spends approximately \$137 million per year to maintain the death penalty but would need only about \$11.5 million per year to keep offenders incarcerated for life. A system that includes capital punishment is especially costly because the state must prepare more comprehensively for capital trials, jury selection takes longer, prosecutors and court officials put in more hours, the trials take longer because they are bifurcated (i.e., there is a guilt phase and a sentencing phase), convicted defendants go through an extensive appeals process, death row inmates must be maintained in high-security facilities, and the equipment and the chamber used for execution are expensive to maintain.

A clearly negative effect of the criminal justice system in the U.S. is that it disproportionately incarcerates and executes Black defendants, particularly Black men.

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<sup>22</sup> Bowers, "The Effect of Executions Is Brutalization, Not Deterrence," 71.

<sup>23</sup> John K. Cochran, Mitchell B. Chamlin, and Mark Seth, "Deterrence or Brutalization? An Impact Assessment of Oklahoma's Return to Capital Punishment," *Criminology* 32.1 (1994): 107-34.

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<sup>24</sup> Costanzo and Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, 357-358.

Compared to White defendants, Black defendants are more likely to be charged with capital murder after arrest, more likely to be convicted at trial, more likely to be sentenced to death if convicted, and more likely to be executed if sentenced to death.<sup>25</sup> This difference remains even after controlling for crime type, criminal history, socioeconomic status, and the race of the victim. (The victim's race is an important factor in itself; compared to Black defendants accused of killing Black victims, Black defendants accused of killing White victims are more likely to be charged with capital murder after arrest and more likely to be sentenced to death if convicted.<sup>26</sup>)

Regardless of their race, defendants often find the system skewed against them. Capital juries are *death-qualified*, meaning that prospective jurors may be excluded if the judge believes their opposition to the death penalty renders them unable to decide on the defendant's guilt with impartiality or makes them unable to sentence a convicted defendant to death.<sup>27</sup> This process excludes up to 33% of eligible jurors. The remaining (death-qualified) jurors are more conviction-prone,<sup>28</sup> more receptive to aggravating

factors, and less receptive to mitigating factors.<sup>29</sup>

Perhaps the biggest practical problem with capital punishment is that it operates under the assumption that all convicted offenders are guilty, but they are not. Some wrongly convicted individuals get lucky (eventually). During the past 50 years, more than 160 death row inmates have been exonerated through DNA or other evidence.<sup>30</sup> Others are not so lucky. Given the existence of exonerations from death row, it is statistically improbable that everyone who has been executed in the U.S. was guilty as charged. Yet due to eyewitness error, false confessions (often caused by police coercion), prosecutorial misconduct, inadequate defense, and other problems, some innocent people find themselves on death row with no escape. Gary Graham, for example, was unable to obtain legal relief after being convicted of robbery and murder in Texas even though no physical evidence connected him to the crime and two alibi witnesses were never called by Graham's lawyer.<sup>31</sup> After the trial concluded, three jurors signed statements saying they would not have convicted Graham if they had known about the witnesses. Still, Graham was executed in 2000.

An accumulation of social science data has revealed that the death penalty is ineffective at reducing crime and is biased in its application. Even without these data, however, Christians should reject capital punishment because it is an element of a

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<sup>25</sup> Costanzo and Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, 364.

<sup>26</sup> Craig Haney, Joanna Weill, and Mona Lynch, "The Death Penalty.," in *APA Handbook of Forensic Psychology, Vol. 2: Criminal Investigation, Adjudication, and Sentencing Outcomes.*, ed. Brian L. Cutler and Patricia A. Zapf (Washington: American Psychological Association, 2015), 451–510, <http://content.apa.org/books/14462-017>.

<sup>27</sup> Costanzo and Krauss, *Forensic and Legal Psychology: Psychological Science Applied to Law*, 362.

<sup>28</sup> Claudia L. Cowan, William C. Thompson, and Phoebe C. Ellsworth, "The Effects of Death Qualification on Jurors' Predisposition to Convict and on the Quality of Deliberation.," *Law and Human Behavior* 8.1–2 (1984): 53–79.

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<sup>29</sup> James Luginbuhl and Kathi Middendorf, "Death Penalty Beliefs and Jurors' Responses to Aggravating and Mitigating Circumstances in Capital Trials.," *Law and Human Behavior* 12.3 (1988): 263–81.

<sup>30</sup> "1,500 Executions; 166 Exonerations," *Death Penalty Focus*, 11 July 2019, <https://deathpenalty.org/blog/the-focus/1500-executions-166-exonerations/>.

<sup>31</sup> "The Case of Gary Graham - Facts | Capital Punishment in Context," n.d. <https://capitalpunishmentincontext.org/cases/graham>.



retributive justice system that has no place within the mission of God. Nevertheless, as Marshall has observed, some people who identify as Christians (particularly fundamentalists) claim that the Bible condones the death penalty, and they typically make three points to that effect: They find support in Genesis 9:4-6 and in Pentateuchal law, and they can find no explicit prohibitions in the New Testament.<sup>32</sup> It is beyond the scope of this paper to summarize Marshall's response in detail, but some highlights are discussed below.

First, Marshall argued that God's statement to Noah that "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" (Gen 9:6) was meant to limit the death penalty so that it applied only to murder and not to other violations. In addition, it is clear that God is claiming the right to shed blood ("I will require a reckoning for human life"; Gen 9:5), not authorizing modern secular governments to atone for sin through the use of execution. Finally, the fact that modern Christians ignore the food restrictions included within God's covenant with Noah ("you shall not eat flesh with its life, that is, its blood" Gen 9:4) imply an understanding that later events (e.g., the work of Jesus) changed things.

Regarding Pentateuchal law, Marshall asserted that the codes listing punishments were never intended to be applied rigidly and automatically but instead functioned to underscore the values of ancient Israelite society (e.g., the severe penalty for murder shows that it was considered very wrong). There are notable examples of biblical figures who killed another person but escaped execution (e.g., Cain), and some even led lives afterward that certainly seemed blessed by God (e.g., Moses).

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<sup>32</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, 214.

Additionally, Marshall pointed out that acts of violence were considered analogous to a form of pollution or contagion in ancient Israel, so the death penalty was a way to cleanse the community. Because modern secular criminal justice systems do not operate with this goal, Pentateuchal law is not relevant to them.

The third justification for the death penalty commonly used by fundamentalist Christians is that, according to them, nothing in the New Testament opposes it. It is true that no verses explicitly say "do not kill anyone, not even killers," but mercy, forgiveness, and reconciliation are essential components of Jesus's message. Although Jesus repeatedly affirms the principles of the Torah throughout the Gospels, he also "draws practical conclusions from them for his followers that sometimes run counter to the existing provisions of the law."<sup>33</sup> He does not repeal the law, but instead brings it to its ultimate fulfillment. By "demanding an inward, heartfelt obedience to its true intentions, Jesus renders the literal application of [the law's] provisions redundant in the age of the kingdom."<sup>34</sup>

Further evidence of Jesus's opposition to the death penalty comes from John 8:1-11, in which Jesus rescues a woman "caught in adultery." The story's details make it clear that the scribes and Pharisees thought they could trap Jesus because they had a solid case against the woman (she was caught in the very act of adultery!) and had figured out from Jesus's prior teachings that he would reject the death penalty, even for a guilty offender. The story does not work unless Jesus opposes capital punishment as a matter of principle.

Thus, although at first glance the death penalty might seem biblical, it is actually

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<sup>33</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, 228.

<sup>34</sup> Marshall, *Beyond Retribution: A New Testament Vision for Justice, Crime, and Punishment*, 228.

inconsistent with the mission of God, which involves developing loving relationships with others, treating others with concern and respect, and acting purposefully to restore relationships when necessary. It is hard to stand in solidarity with the guilty, to hold onto the “fierce and difficult hope” that a murderer will find redemption, as Jennifer McBride noted.<sup>35</sup> But Christians must follow the lead of Sister Helen Prejean and see that criminal offenders are “more than the worst act of their life.”<sup>36</sup> We remember that we all have sinned and fall short of the glory of God. We realize that the death penalty closes the door on the possibility of reconciliation. We recognize that every person, no matter what he or she has done, is a beloved child of God. “The death penalty is inadmissible,” wrote Pope Francis in his revision of the Catechism of the Catholic Church, “because it is an attack on the inviolability and dignity of the person.”<sup>37</sup>

Can restorative justice apply to cases involving homicide? Several points are relevant to this question. First, murdered victims obviously cannot participate in the process. However, their families can, and family members qualify as victims too, given that they have suffered harm. Second, it is important to keep in mind that restorative justice models can still operate when the damage caused by the offender cannot be undone. Third, as noted previously, incarceration is not incompatible with the principles of restorative justice, nor

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<sup>35</sup> McBride, *Radical Discipleship: A Liturgical Politics of the Gospel*, 158.

<sup>36</sup> “Sister Helen Prejean on Book, Getting Rid of Death Penalty, Getting Jesus ‘Right,’” *Religion News Service*, 20 August 2019, <https://religionnews.com/2019/08/20/sister-helen-prejean-on-new-book-getting-rid-of-death-penalty-and-getting-jesus-right/>.

<sup>37</sup> “Pope Francis Changes Teaching on Death Penalty, It’s ‘Inadmissible,’” *Crux*, 2 August 2018, <https://cruxnow.com/vatican/2018/08/02/pope-francis-changes-teaching-on-death-penalty-its-inadmissible/>.

is incarceration meant to be eliminated as an option. Thus, an offender who is a threat to the safety of others can be removed from society, at least temporarily, yet there is no reason why the restorative process could not occur (or at least begin) while the offender is in prison. Another point is that interactions between offenders and victims are arranged only if both parties agree. It is true that restorative justice does not lead to a desirable outcome in every case, and some cases might simply involve too much violence to be candidates for reconciliatory conferences. On the other hand, restorative justice was not primarily designed for minor offenses or first-time offenders, and data suggest that it has a greater effect in more severe cases.<sup>38</sup> In fact, some communities are currently using restorative justice models in cases involving homicide and death as a result of drunk driving. Despite some obstacles, then, there is reason for hope that this approach can succeed.

### How Congregations Can Take Action

Christian communities who want to live as faithful witnesses to the gospel can take specific steps to work for restorative justice and the abolition of capital punishment. Below are some examples of ways to engage.

1. Support activist organizations by volunteering, donating, or holding a fundraising event.
  - The American Civil Liberties Union ([aclu.org](http://aclu.org)) and Amnesty International ([amnestyusa.org](http://amnestyusa.org)) are two organizations that work to overturn death sentences in individual cases and to end the death penalty.
  - The Ministry Against the Death Penalty ([sisterhelen.org](http://sisterhelen.org)) opposes capital punishment and promotes

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<sup>38</sup> Zehr, *The Little Book of Restorative Justice*, 9.

- alternatives to the death penalty based on restorative justice as well as funding for victims' services.
- The Innocence Project ([innocenceproject.org](http://innocenceproject.org)) focuses on exonerating incarcerated individuals who were wrongfully convicted.
2. Raise awareness of the need to end capital punishment.
    - Donate literature written by death row prisoners to libraries, churches and classrooms.<sup>39</sup>
    - Work with the Innocence Project's Speakers' Bureau to arrange for an exoneree and/or a staff member to give a presentation to a church, high school, university, community group, or corporation.
    - Follow guidelines provided by the Innocence Project to host a church, community, or corporate event that educates attendees by means of a speaker, film, or book discussion.
    - Invite anti-death penalty activist Sister Helen Prejean (portrayed by Susan Sarandon in the film *Dead Man Walking*) to speak at a church or community event ([sisterhelen.org](http://sisterhelen.org)). She receives more requests than she can accept, however, so plan ahead.
  3. Communicate with elected officials.
    - Meet with local officials, form relationships with them, and respectfully express opposition to capital punishment.
    - Write to state legislators and the governor of the state in which the congregation is located.
  4. Provide encouragement to prisoners.
    - Follow the instructions on Sister Helen Prejean's website ([sisterhelen.org](http://sisterhelen.org)) explaining how to write letters to incarcerated individuals while maintaining the safety of the writer.
  5. Become involved with prison-related ministries.
    - Congregations can partner with organizations to help with existing programs. Larger congregations with more resources can consider starting their own programs like these examples highlighted by Jennifer McBride:<sup>40</sup>
      - Magdelene House in Nashville, Tennessee is a residential program for homeless women and paroled offenders that provides housing, medical care, education, job training, and therapy.
      - New Hope House in Georgia supports the families of death-row inmates by providing lodging, food, transportation, and companionship on visitation days and during scheduled executions.

As Christians, we proclaim that all people are created in God's image and therefore possess inherent dignity and worth. By speaking out and taking action against injustice within the legal system, we can offer ourselves as visible witnesses to the gospel, reflecting God's love, mercy, and compassion for all human beings – the guilty as well as the innocent, non-White as well as White, and Muslims, Jews, and

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<sup>39</sup> The Nation, "Ten Things to Abolish the Death Penalty," 21 March 2011, <https://www.thenation.com/article/ten-reasons-why-death-penalty-should-be-abolished/>.

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<sup>40</sup> McBride, *Radical Discipleship: A Liturgical Politics of the Gospel*, 252-255.

atheists as well as Christians. In this way, we can serve as God's agents in continuing the mission of God on earth, drawing others into community, reintegrating outcasts, liberating the oppressed, and helping to establish the reign of God.

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