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FOR LAW AND SOCIETY

Susquehanna University

SHOULD THE DEATH PENALTY BE ABOLISHED?

SUSQUEHANNA UNIVERSITY
STRETANSKY CONCERT HALL
SELINGROVE, PENNSYLVANIA
MARCH 27, 2008
1:00 P.M.

IS THE DEATH PENALTY JUST AND MORAL?

PARTICIPANTS:
James Acker, J.D., Ph.D.
Barrett Duke, Ph.D.
Howard Zehr, Ph.D.

Before: Sarah C. Thomas, RMR
Reporter-Notary Public

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MR. ACKER: Well, good afternoon to you all. Welcome to the panel session. It's going to feature Dr. Howard Zehr and Dr. Barrett Duke. Our discussion topic is, is the death penalty just and moral.

My name is James Acker. I'm here from the University of Albany in New York. I will just be introducing the panelists and then I'll be moderating the questions following the presentations.

I first want to thank our hosts here at Susquehanna, particularly Al Sobel and Mimi Arcuri and Judge Adams. What you all are seeing is the tip of a very large iceberg, the amount of work that's been invested in this and the vision, the thought, and the planning has just been tremendous and the hospitality has been terrific, and we all appreciate it very much, so thank you.

The death penalty, our topic for today, is clearly a very complex, difficult topic and that's true in part because there are so many different levels and dimensions to the issue. And just when you think you are beginning to reconcile yourself to a position on one issue, whatever that issue is -- and, for example, today we have learned a lot about lethal injections. We have heard about the perspectives of the family members of murder victims. We thought about the issue of innocence. And just about when you think you got it on one of those issues, along comes another issue.

And it seems almost endless. We could spend an enormous amount of time talking about matters such as effectiveness of capital punishment, does it help inhibit crime, protect society from dangerous offenders, is it cost effective? We could and we will later this afternoon talk about whether capital punishment is administered in a fair and reliable way.

But now we are going to think about issues that sometimes define intellectual engagement. You almost come sometimes at the death penalty from the gut or the heart instead of from your higher thinking processes and at some point we all have to ask ourselves at some level, is it right? Is it just for government to punish heinous crimes by taking human life?

Now, ironically, these questions are among the most difficult for many people. For others they are relatively easy and straightforward, because they are at such fundamental levels of faith or belief.

But the just and morality of capital punishment suggests a whole series of questions. They begin with, should we ever punish crime by taking another's life? And then the sub-question, well, if we are going to use capital punishment, for what crime? Should it be murder? Should it be all murder, only some murder? Should it be crime in addition to murder, treason, espionage?

Right now there is a man under sentence of death in the State of Louisiana for raping a nine-and-a-half-year-old child and next month the Supreme Court of the United States will address the issue of whether the United States Constitution would be offended by executing an individual convicted not of murder, but of raping a child.

So what crimes, if capital punishment, and what offender? Should it matter why a crime has been committed, somebody whose crime is a product of a drug habit as opposed to a contract killing versus a fit of rage or jealousy or terrorism? Should upbringing matter? Should prior good deeds or prior bad deeds be factored into a death penalty decision? What about age? Should we limit the death penalty to people who are 18 years or older? Should mentally retarded offenders

be exempted from capital punishment? What about Adolph Hitler? What about Osama Ben Laden? What about Timothy McVeigh, the man who Bud Welch spoke about so eloquently last night?

So, in short, should we have the death penalty at all? If so, should it be reserved for the worst of the worst and, if so, how to we identify those individuals?

Now, this afternoon we have, fortunately, two outstanding speakers who are going to help eliminate these issues for us all. And I will introduce them both at this time and then we will turn the podium over to them.

Speaking first is Dr. Howard Zehr. He is a professor of restorative justice at Eastern Mennonite University in Harrisonburg, Virginia. Howard is the author of a number of books and articles on restorative justice and about crime and criminal punishment more generally. He has lectured throughout the world from Vietnam to Northern Ireland, New Zealand, South Africa, and about 50 places in between and beyond.

He is also quite an accomplished professional photographer, and his books involve compelling integration of imagery as well as text.

Those of you have been able to attend other sessions may have picked up that Howard and colleagues were appointed by the Federal Court in the trial of Timothy McVeigh for the Oklahoma City Bombing to assist the defense in their interaction with the victims and their survivors of the bombing, and Howard has recently been appointed to the Victim Advisory Board of the United States Sentencing Commission.

Howard will be speaking first, as I said. Then speaking second is Dr. Barrett Duke, the farthest away from me on my far right. Dr. Duke is the vice president for public policy and research and the director of the Research Institute -- now this is a mouthful for me -- of the Ethics and Religious Liberty Commission of the Southern Baptist Convention.

Now, in this capacity Dr. Duke has taken a leadership role in interacting with multiple governmental agencies, policy organizations, to advocate on a wide range of very important public policy issues that touch on religious freedoms and human rights. He is a prolific author. He has written about capital punishment, as well as many other issues, including apportion, gambling, and the environment.

He has been an active member of his church for decades. He holds a Ph.D. in religion and theological studies from the University of Denver, and he presently resides in Maryland and has a working office in Washington, D.C.

We are going to follow a format that's a bit different from prior sessions. This is not a debate. It will be an exchange of views. We are going to ask Dr. Zehr to take up to 20 minutes to present his perspective on the morality and justice of the death penalty. Then Dr. Duke will also have 20 minutes. Then, if the speakers wish, we will allow them the opportunity for five minutes of responsive discussion and then we will open up the floor for your thoughts and questions.

I've been warned and told that at about 2:15 we appreciate there will be a changing of the guard. Some of you will have to go onto the next class. So if you see a maximum exodus around that time, it's preplanned and we will try to take a little break at that time.

So without further ado, let me ask Howard Zehr to kick us off here. Howard.

DR. ZEHR: Thank you. It's good to be here today. I am looking forward to the next session.

The question that's before us is, is the death penalty just and moral? For me the answer depends on the moral universe in which we operate.

I think the arguments for the death penalty have a certain logic to it if you accept a tit-for-tat world, the logic of justice that underlies it, if you assume that people are basically kept in line by the fear of punishment, if you assume that every harm needs a harm in return, if you assume that our security requires any possible threat of danger to be eliminated.

Now, even with this dog-eat-dog moral universe we can make strong moral, ethical objections for the death penalty. You have heard some of those already in this conference. I've made them elsewhere. I'm not going to talk about those.

To me one of the most basic concerns, though, is that I think in many ways the death penalty is, as James Gilligan has said, a mere image of the behavior it claims to condemn. James Gilligan is a psychiatrist who was the head psychiatrist of the Massachusetts prison system for a number of years. He has written a very important book, I think, called *Violent Reflections on an Epidemic*. He has said that both are part of the same cycle, violence. Both operate in the same moral universe.

I was sitting with a group of lifers in Graterford a number of years ago. We had a young fellow join us who had not been in very long. We got to talking about justice on the streets and the older guys said, "When we were on the street if someone dissed us, we had to fight. We didn't have to win. We had to fight. And as long as we fought, we were a man." This young man said, "Man, are you out of touch. If someone disses me, I have to waste them. There is no other way that I can survive on the street."

Gilligan says that all violence is an effort to do justice or undo injustice. All violence is an effort to do justice or undo street justice, whether it's street crime or terrorism. He says both violence and what we call justice is using violence to do justice and undo injustice. "What is conventionally called crime is the kind of violence that the legal system calls illegal and punishment is the kind that it calls legal, but the motives and the goals that undermine both are identical. They both aim to obtain justice or revenge for past injuries and injustices."

This may be why we cannot find credible evidence that the death penalty deserves. It may be why some evidence seems to suggest that the death penalty may actually cause some murders to happen.

My argument is this tit-for-tat message is the justice of the street is reinforced by the death penalty, but it's also true of criminal justice in general. In general our whole criminal justice system revolves around a simple question and that is, what does the offender deserve? We assume, then, that the offender deserves punishment, that pain ought to be imposed for pain done.

It's also a very adversarial process. We assume that the state should be put to the proof and so your attorneys plead not guilty. So all the denial mechanisms that allow you to commit the crime in the first place are reinforced by the defense, where you are now in adversarial relationship with the state and the state has to prove it.

For victims, they are not part of the equation because the crime is against the state. You have heard that already. So officially they

have very little standing and the adversarial nature of trials is a very traumatic experience.

Judith Lewis Herman, who has written, I think, one of the most important books on trauma, says if you are going to create a system to generate posttraumatic stress you could not do better than a court of law.

In the system we also assume that criminals are primarily acting out of individual free will. I don't know if any of you have read the Zimbardo effect, but if you haven't, you should. Zimbardo, who did the famous Stanford prison experience in 1971, and then was called in as a consultant to see what happened in Abu Grave, writes a book in which he argues that the problem is we have to look at three elements in wrongdoing: First, the dispositional -- that would be the individual -- secondly, the situational; and third, the systemic.

The criminal justice system then revolves around three basic questions; what laws have been broken, who did it, and what do they deserve? This is designed to communicate some very important values. It tries to communicate each of us has rights that must not be violated. There has to be boundaries on your behalf. It tries to emphasize the importance of law and the need for everyone, including those in power, to be subject to law. But it does this in a way that's largely negative. It says, You do this or we will do this to you.

So we have to bring in mitigating values from outside that ethical system to make it more humane. We tell our correctional guards, This is how you must behave, because the system itself is largely negative. Zimbardo's work, I think, demonstrates how easy it is for those who operate in this value system to be lost in a power-oriented situation.

In the 1980s, I chaired the National Coalition to Abolish the Death Penalty for a few years. Then I left that work not because it wasn't important, but because I thought we needed to be looking deeper, we needed to be asking questions about the paradigm, the lens we were using to think about crime and justice, the moral universe discourse. That's what I've spent most of my life doing.

That moral universe comes out of something that's come to be called restorative justice. Restorative justice began as a way to respond to needs that were not being met by the criminal justice system, ways to respond to the many needs the victims have that were not being addressed, the need to hold offenders genuinely accountable in the sense of helping them understand what they have done and take responsibility for it.

It's best known, probably, for a series of programs that allow victims and offenders to meet, but it's much more than that. It began with lesser crimes, but today it's being used for all kinds of serious crimes. Mary Achilles is one of the pioneers in the country for helping this state to get groups of victims of serious violence who want to meet their offenders to be able to do so.

The basic framework has gone on in what you heard her reference to what we have come to call death-initiated victim outreach, where we train specialists to help surviving family members identify what they need from a justice process and have contact not only with the prosecutors, but with the defense as a way to meet those needs.

Today restorative justice is being used, one of the big frontiers is in school disciplinary procedures, where whole school systems are beginning to realize the limit to zero tolerance and have put in place restorative disciplinary procedures.

Behind these concepts and principles -- I'm sorry. Behind these programs is a different way of thinking about wrongdoing. The criminal justice system and restorative justice system both agree that when a crime happens, a wrong happens like a crime, it needs to be named. It needs to be denounced. We cannot tolerate that kind of behavior. But then where do we go from there?

The criminal justice system is obsessed with this question of who did it and what do they deserve. We are saying we ought to be obsessed with the questions: Who has been hurt in the situation, what are their needs, and whose obligations are they.

In other words, we are trying to change the question. Instead of what being so pre-occupied with rules are broken and who did it and what do they deserve, we ought to be preoccupied with who has been hurt in this situation, what are their needs, and whose obligation is it, and what can we do to restore the parties to the extent that it's possible.

As we heard last night, the term restorative is a problematic term when we talk about murder. We cannot go back. If you have lost this child to murder, this child cannot be restored. But there are things we can do to help restore those who survive to a healthy community.

Now, this approach grew out of an effort to meet the real life needs of victims and offenders and communities. But I have found that I think in many ways it's more in line with many of our cultural and religious traditions, including the Judeo-Christian one. I believe we have misinterpreted the Biblical story.

We have read it with a retributive lens when the ultimate life story is God does not give up, the story of restoration. I'm convinced that Jesus came speaking against tit-for-tat violence. In fact, he came to break the cycle for violence and somehow we have managed to turn it upside down and turn it into a justification.

I am a historian. That's what my Ph.D. was in. So I am very well intrigued by how we got where we are. I am convinced there was a kind of historical short circuit as law and theology were developing in medieval Europe, and they reinforced each other in a punitive way and caused us to go back and read that Biblical story to miss the historic elements.

I am not going to have time to go into that in any detail, just to say I find, as a Christian, that it resonates in my tradition. I teach in a context where people come from around the world, Muslims and Hindus and Buddhists, and most of them find resonance in their own history with restorative justice.

I work in the practical part of restorative justice, but for many years people have come up to me and said, I have found that restorative justice is a way of life. And I have been mystified by that for a long time. I never heard anyone say criminal justice is a way of life. I know some people for whom it is, but they never sort of positively embraced it.

I think criminal justice, as I said, aims to communicate the positive values, but does so in a negative way and, in doing so, communicates some negative values, just as I believe the death penalty reinforces behavior it tries to rectify.

Restorative justice, on the other hand, is organized around positive values. It's values that we desperately need as a modern culture, values such as respect and relationships and responsibility. In fact, I think, unlike criminal justice, restorative justice communicates a moral vision about how we want to live together.

In Judeo-Christian terms, I talk to judges and they say an eye for an eye and a tooth for a tooth. Well, that was not intended as a command you have to take. It was meant as a limit. But it occurs three times. What occurs 350 times in the Old Testament alone is the word shalom. We are called to live a right relationship with each other, with our creation and with the creator. I call it the shalom triangle. Whether you use religious language to understand restorative justice or not, I think what we are trying to convey in restorative justice is a different moral universe about how we live together.

It's interesting that neuroscientists are beginning to confirm that at the core of restorative justice is this idea that human minds are inter-related. Neuroscientists are telling us the human brain is wired to connect with other people. They are telling us, as they look at restorative justice programs, the reason they are successful is because nothing reprograms that brain faster than experience and empathy.

So I wasn't surprised, I guess, when I took a group to Muncy Women's Prison a while back and sat with a group of women lifers who have been studying restorative justice and I discovered they were keeping each other accountable with a very simple question. Somebody was going off the road and they would say, "Is that the RJ way"? It became a kind of moral vision of how they lived together.

Now, my argument is giving people what they deserve, death for death, does not make rational or empirical sense, but it does make emotional and intuitive sense. When I work with victims I feel it sometimes, too. Bud said that himself last night about that feeling. I certainly can understand why they feel that way and certainly I am not going to stand in judgment for them feeling that way.

What I do think it reflects, as Mary Achilles said earlier today, is a need for reciprocity, for balance. If I were to give you a gift, I think you would have to give me a gift or you would do the calculation in your head about why you don't have to give me a gift.

I think everyone, no matter of what culture, has a need to balance the score. And I think the motive for Christmas, exchanging Christmas gifts and the motive for revenge comes from the same place. We need to be validated and vindicated. We need someone to be held responsible. We need to know that we are not responsible.

I am convinced as I work with victims that there is a whole series of needs that I call justice needs. There are a lot of needs many have and a lot of times they vary from person to person. Some of them they have to address with their therapist and loved ones.

But there is a cluster of needs I keep hearing from victims that I call justice needs. And my experience is when people seem to get stuck it's because they never had those needs addressed properly and, conversely, when people seem more able to move along it's often because in some ways those needs have been addressed.

I don't have time to explore those now other than to say they include things like real information about what happened and who did it, all those questions, what were my daughter's last words, all those kinds of questions. Chances to tell their story to honor their loved one, as Mary said. It's very important, a chance to be empowered after someone has taken power over your child or your physical life or your emotional life; a need to be vindicated, to have the score balanced in some way, to have responsibility established.

I believe that if we work -- if we were to use the energy we are using for the death penalty to meet those needs we would be much farther ahead in society.

So to wrap up here, victims of society have huge needs for protection, for vindication, for validation after a murder. Boundaries need to be drawn. Offenders need to be held accountable. I don't think, though, the death penalty is an appropriate way or an effective way to do that.

Restorative justice originated as a way to respond to injustice, but it's rooted in a larger concept, one that isn't limited to looking out for my rights, but it's equally concerned about other people and about my responsibilities to them.

Is the death penalty moral and just? I don't think we can get to a good spot in a bad way. We cannot encourage a life-giving moral universe by taking life. Rather, I would argue we need to live in a moral universe that practices what it preaches, that demonstrates what it wants its members to be like.

Thank you.

DR. DUKE: I'm glad to be here with you today. It's been great to be on your campus. I have never been here before. I feel like you are getting a great experience and a great education here, so it's my pleasure to be with you.

Somewhere back there, if they are still there - I didn't expect as much of a response, and people are interested on this campus -- but I did bring copies of a couple pieces for your interest. I think they are in the back or they may already be distributed, but they are on our website if you want to get them.

The first is an article that I wrote on Capital Punishment, a Biblical Perspective. I am going to talk some about that today. Then the other is the Southern Baptist's Resolution on Capital Punishment, in which the Southern Baptists take an official position in support of the continued practice of capital punishment with some significant reservation, as well.

But you can find both of these on our website at erlc.com, the topic section. More copies might be around. I think there is a lady in the back that has some.

Let me start out with this story. This was taken from a report in the newspaper The Tennessean. Cary Ann, an ordinary, happy fourth grader with curly, brown hair and an easy smile died on September 1st, 1979. She was riding bicycles with her younger brother in their quiet neighborhood when she was abducted from a church parking lot by a man who took her to a secluded gravel road, raped her, and cut her throat.

Robert Allen Coe -- Robert Glen Coe said he convinced Cary Ann to get in his car by saying he wanted to talk with her father but was unsure where her family lived. He said he decided to kill the child after he had sexually assaulted her. He says this in his decision to do that, "She told me that Jesus loves me and that is when I got so upset and I decided to kill her."

He said he pulled out a pocket knife after an attempt to strangle the child failed. He said, "I stabbed her in the neck once and pushed her down on the ground. She started jerking and grabbing at her shirt at the neck. I stood there and watched the blood come out of her neck like turning on a water hose."

Coe was executed by the State of Tennessee for this horrific murder on March 23rd, 2000.

Now, the question is, is capital punishment just and is it moral? I would argue that, yes, capital punishment is just. Those who know that they are going to murder somebody, those who contemplate murdering someone -- and it's an unusual circumstance where somebody is actually charged with a capital offense and executed simply because, as -- people use the term "simply because" -- because someone died unexpectedly. Usually there has to be some premeditation involved. There certainly are significant aggravating circumstances involved.

But those who murder know what the law says. It isn't as though they got surprised all of a sudden and learned that if they committed this horrific act that they would be subjected to the death penalty. So they know what the penalty is. They choose to do it, anyway.

Second of all, is it moral? Yes. Capital punishment is moral. It fits the penalty to the crime. In fact, to declare capital punishment as immoral is to say that the Bible itself mandated immorality.

Now, some people want to compare capital punishment to -- the Bible's teaching on capital punishment to its -- to its teachings on slavery or others want to see it and talk about how people use the Bible to support the idea of segregation. And they did. Too many Southern Baptists used the Bible to support the practice of segregation.

But there is a significant difference between the way the Bible speaks to the issue of capital punishment and the way that it speaks to the issue of slavery or segregation. In the Bible slavery is never mandated. It's accepted as a practice of the day, but there is no place in the Bible where people are told to enslave someone else as a direct mandate from God.

Segregation is not taught in the Bible. People have to take Bible passages and make them say what they want them to say in order to accomplish that, in order to get the Bible to support segregation.

On the other hand, when you come to capital punishment, you have direct statements in the Bible that support the use of capital punishment by the appropriate civil authorities. Genesis 9, "Whoever sheds the blood of man by man shall the blood be shed, for in the image of God, God has made man." This is a direct statement in scripture that when somebody has murdered somebody else, the penalty is supposed to be death for that offense.

Now, some people want to say that, well, since this is out of the Old Testament, it was intended for the Nation of Israel. It doesn't apply to cultures today. What they miss, however, is that this passage in Genesis 9 predates the establishment of the Nation of Israel by considerable time. In other words, there was no Nation of Israel as the Bible explains for us historically, the development of God's working with humanity. This was a command given as the Bible teaches that only human beings present on the earth at the time and this was a mandate given to all of humanity, not just to the Nation of Israel.

The next Bible passage that I wanted to share with you comes from the Book of Romans, which is in the New Testament, which helps us recognize that this isn't just something that's taught in the Old Testament; it's just something that's supposed to be practiced by the Nation of Israel. This is the Apostle Paul. We don't believe the words of Jesus are more authoritative just because Jesus spoke them than all the rest the scriptures. What Paul taught is just as authoritative as what Jesus said. It's all in the same Bible, accepted by the same community of faith.

Paul says this: Everyone must submit himself to the governing authorities, for there is no authority except what God established. The authorities that exist have been established by God. Consequently, rebelling against authority, you are rebelling against what God has instituted and those that do so will bring judgment on themselves. For rulers hold no more territory for those who do right than do those who do wrong. If you walk in fear of the local authorities, then do what is right and they will commend you. For he is God's servant and will do you good, but if you do wrong, be afraid, for he does not bear the sword for company.

Paul teaches us that government bears the sword for a purpose and all of the rest of the time that Paul uses that word sword in the Book of Romans he refers to death. For Paul the word sword is a synonym for death in the Book of Romans.

So it isn't possible to say that the government spares particular authority to punish people. He is saying that the government even has the right, the authority to exercise capital punishment.

So we believe that the Bible teaches that capital punishment has been mandated by God, it has been given by God to the appropriate authorities to use under appropriate circumstances, so, therefore, we don't believe it's possible to say capital punishment as a practice is immoral.

Now, capital punishment, the way it's practiced could very possibly be immoral. That's our concern; not with the institution of capital punishment, but how it has potential to be abused.

All right. With the time I have left I want to just address a number of objections that people have raised just so you can hear our perspective on these particular objections. First of all, a claim is certainly made that capital punishment or the application of capital punishment is racist. Certainly the Department of Justice has not been able to demonstrate that it is racist. Their study has demonstrated that there is no indication of bias against race when decisions are made whether or not to bring people up on trial in capital cases.

So in terms of at least the federal application, there is no indication of racism. In fact, it's my understanding -- I'd be happy to be corrected. It's my understanding there are more whites on death row today than there are blacks on death row today, even though the statistics indicate that the black community has more murders involved committed by blacks than there are whites committing murders.

So there does seem to be another side to this story about why there are particular biases. Certain groups are charged with capital cases more than others. In fact, unfortunately, it would seem that blacks commit more murders than whites do and so it makes sense that you would find that more of them are being brought up for capital cases.

However, it doesn't really rule out the possibility that in some circumstances some prosecutor somewhere is making decisions about who to prosecute or who not to prosecute based on race and that concerns us. We don't think that the system -- we don't think studies of the system demonstrate that the system is just absolutely racist and that it's out simply to kill more minorities than to kill more people who are white.

Second, the claim is made that innocents have been executed. The argument is all of these people who have been exonerated, there is evidence that they were innocent. Many of those people weren't exonerated or had their convictions overturned because they were

innocent. It was because there was a failure to do proper procedures in the trial and it became evident that all of the evidence was not used in an appropriate way or that somehow there was a failure on someone's part.

And these overturned convictions are not necessarily indications of innocence. They are more often indications of a faulty process; not that those people who were convicted of those murders were actually innocent of those murders.

So fortunately now, with DNA testing, we are finding that there have been people who have been wrongly convicted of murder and we are glad for that. And as far as we are concerned, DNA testing is a very important part of this process and it ought to be available in every circumstance as often as possible and that DNA ought to be able to be brought up in future reviews. We agree that this is too serious for the record to simply be closed and there be no opportunity for further review not only of the evidence that was originally admitted, but additional evidence, as well, to make sure that we never execute an innocent person.

But at this point there is certainly no evidence that an innocent person has been executed. We are not going to say that this has never happened. We don't know. All we know is no one has proven that an innocent person, I don't think, has been executed.

Some people say that, Well, it's more expensive than not capital case. It's actually cheaper to imprison someone for life than it is to pay the expense of a capital trial.

We don't think that you should be making decisions about justice based on how much it cost. You shouldn't put a pencil to it and say that, Okay, this person's life is worth X number of dollars and that the cost to defend in these circumstances are X number of dollars, so let's just spend less dollars and let's just plan to imprison the person for life, rather than spend the full amount and determine whether or not this person really is guilty of murder. We don't think, then, this should be determined by how much it cost, whether it costs more or less to imprison a person for life.

The charge that there is inconsistent application, that the poor and minorities are tried more often in capital cases, we would tend to agree that we find the poor and minorities are more often tried in capital cases, though we also recognize oftentimes, most of the time when you have a capital case involving capital punishment, it's because there were aggravating circumstances, like there was robbery involved, there was some other offense in addition to the offense of the murder, and we find certainly minorities involved in significant rates of crimes with aggravating circumstances.

So it's not as simple as some people are saying that it is and so the system is just racist and it's just out to get the minorities and poor people. There are additional circumstances that need to be taken into consideration that we don't believe have been adequately considered.

The possibility of abuse. We certainly do think that motivations should be considered. Why is the prosecutor pursuing capital punishment in particular circumstance? That's a significant concern to us.

You heard the story just earlier today about a man who was wrongfully accused and wrongfully convicted, and there were inappropriate motivations behind that. That's of concern to us, as well as the fact that some people see capital punishment as retaliation.

We don't think you should think about capital punishment as retaliation. We would agree that most people don't get closure because the person who murdered, often times brutally, a loved one is executed. Some people will tell you they finally got closure. They know that person will never be loose. No one will ever find some little loop hole or some failure to protect all that person's rights. I wonder if that person will one day be out on the street.

Some people do see it as closure, but we don't believe retaliation is an appropriate response. We feel that capital punishment is an instrument for the state to use in order to not only protect the innocent, but also to communicate to all of culture how important we think human life is, that human life has a value, and the very idea of cost that would lead someone to believe they can take someone else's life ought to also be punished by the state. It's not just for the crime. It's also for the belief that life is that cheap.

Some people say capital punishment is cruel. The Supreme Court has said that it isn't cruel, though it's incredible to me that we don't seem to be able to find a way to execute people that we can be sure that they are not experiencing pain. We don't want to see them tortured while they are dying.

There should be -- somebody should be able to figure out how to make that happen and they should get it right. At this point it would seem in some circumstances they are not getting it right, so we do believe that needs to be addressed.

Let's see. I talked some about the idea of capital punishment not being unBiblical. I shared Genesis 9 with you, in that God said mankind is created in his image, so that there is an inviolability about life, a sacredness about life that is supposed to be respected, that God expects humanity to expect the appropriate punishment be given when they don't.

Some people want -- they look at the Sixth Commandment, where God tells the people of Israel -- and you are familiar with the Commandments -- "Thou shalt not kill," and they apply that to the practice of capital punishment. It's very important to know in Hebrew, however, the word that's used there is not "Thou shalt not kill." It's "Thou shalt not murder."

They are two distinct words. The word used in both instances where this Commandment provided for us -- it's the Old Testament and in both cases the word is murder. The Commandment does not say, "Thou shalt not kill." It says, "Thou shalt not murder." So you should not use that passage when you are talking about whether or not God thinks it's appropriate for the state to use capital punishment.

All right. Let me see. Just a couple more things here. Oftentimes we hear folks say society should never kill its people. Generally speaking, we agree with that. Society should never be engaged in killing its people. But it seems to us there is an incredible inconsistency among many who support capital punishment -- I mean who oppose capital punishment who support abortions. We believe apportion is killing a human being, as well.

Why is it that we can oppose capital punishment because it's killing an individual who oftentimes is guilty and yet we can support killing unborn children who have done nothing? They didn't even have any say over whether or not they were conceived and yet we are willing to execute them even to the point of partial birth abortion, which is delivering everything except the head and then sucking the brains out in order to make sure they're dead? Fortunately we finally got an end to that gruesome practice.

How is it that we can say it's wrong to kill people who have murdered, oftentimes viciously, other people and yet support abortion, which is certainly the killing of innocent unborn human beings? We believe there is an incredible inconsistency there and we commend the Catholic Church.

Even though we disagree with the Catholic church on their opposition to capital punishment, at least they are trying to apply a consistent lifeline of ethics. They don't believe in abortion. They also don't believe in capital punishment. At least they are being consistent at that point.

Baptists take a different perspective on it. We take the position, essentially we say all are conceived with the right to life, but some forfeit that right by their actions. So that's why we can take one position on capital punishment, another on abortion, as opposed to the tradition in the Catholic Church.

All right. Just a couple recommendations. I just have another minute here.

Oftentimes there is a call for moratorium. Most of the people that I've talked to see moratorium not as a way to fix the system, but as a way to finally bring an end to capital punishment. Most of the folks that I know of - most of the ones that I know of want a moratorium because they see that they will finally end capital punishment in this country once and for all.

If people would actually -- could actually demonstrate that they want a moratorium in order to fix the problem, we would be interested in talking to them about it. We don't see that that's where it's going to go.

In fact, what we think is once you get a moratorium, you will end the debate, because most of the people will simply say, We got an end to capital punishment, and they won't come to the table to talk about how to do this in a way that respects all of human life, including even the one that's about to be executed.

So we do believe that we have some problems, but the only way we are going to address them is for us to continue with the system that we have. In fact, it's interesting to us that there is more concern over the person on death row and there are more efforts to find innocence or some kind of way to get that person off death row than there are efforts to help people who are put in prison for life without the possibility of parole. Somebody put in prison without the possibility of parole has more likelihood of nobody looking into whether or not he is innocent or his rights have been violated in the process than somebody who has been sentenced to death row.

I'm being told I need to stop here. We would also say we disagree with the execution of minors. Children should not be executed in this country. It's bad enough that we recognize the need to execute adults. We don't believe children should ever be executed. And we believe it should be reserved only for the most egregious, absolutely most egregious cases, like the story that I just read to you.

Thanks very much.

DR. ZEHR: If you were listening carefully, you might have noticed the subtle difference between Barrett's and my perspective.

I am not going to say very much. I think I would take issue with, firstly, all his conclusions about the application of the death penalty, although it's been addressed by others, although some of you didn't have the benefit of hearing the lunch speaker. And I take a radically different stance toward interpretation of the scripture.

But I am going to let you start. We will have a conversation around that in just a minute.

DR. DUKE: I would only add, I don't have anything to add. I appreciate hearing -- you know, I appreciate the fact that we can have a civil debate about this and that we can share our differences of perspective on this issue. It's something that we need to think about. This is serious stuff. I thought you presented your position very well.

MR. ACKER: Well, if that didn't provoke some questions, if you please take advantage of the microphones, we have time for discussion.

QUESTION: Dr. Duke, you mentioned about a terrible rape-murder case. Was there a nice public execution for that? You need deterrence. You always say that capital punishment is a deterrent, but it seems like it's always sequestered away with a dozen people watching and it's done with this injection now. It's all sanitized as a deterrent.

You also mentioned that you were worried about the method of execution. We were talking last night after the program and somebody mentioned a guillotine. The French seem to have it right. It's quick and graphic, too. Could that be televised in the classrooms so kids could learn from the deterrent value?

DR. DUKE: I recognize some of your question as being cynical more than a question. I don't think that we need more violence on television, for one thing. I certainly don't think we need to actually be showing people killing other people for real. Kids see too much violence as it is.

Second of all, we don't support capital punishment. I don't even go out of my way to talk about that. I don't talk about this unless someone comes and asks me to talk about it. It's not an enjoyable topic for me.

From what I see, there are differences of opinion about whether or not capital punishment is a deterrent, but there are very credible studies out there that demonstrate capital punishment is, indeed, a deterrent. Other people have other studies that say it isn't. If you bring your studies and I bring mine, we kind of all sort it out.

One thing I do know is someone who is executed will not ever kill another person again.

QUESTION: Good afternoon. You referred to St. Paul in Romans. What does that mean for a woman who St. Paul considers a male as the authority to submit to? But in the larger context, what do we do in a free society when our authorities are corrupt?

And I don't know if you want to comment before I get to my next question.

DR. DUKE: Well, for one thing, we do believe that Paul taught that it is appropriate for a male to take a primary responsibility in his home. That's not a subservient relationship. We don't believe that the woman is put in a subservient role, but we do believe the person primarily responsible for leadership in the home is the male. We resolve that question that way.

The other question on unjust authority, we live in a democracy. If you don't like it, change it. If there are abuses of power, those abuses of power only take place because the people in this country have chosen to allow it. Fix the problem is what we say.

QUESTION: But only because people are brave enough not to submit to that authority and that's an individual decision.

But my next question is in regard to repentance. And Christians -- most Christians believe that you can repent and God will forgive you and that repentance can come many years after you have been incarcerated.

So what happens to that person who is denied that time for repentance if he or she is put to death? Because we all know of people who repent very late in life. So, as Christians, we should afford that opportunity to people to have that time to find their God.

DR. DUKE: Um, well, I think it takes at least six years to get through the system from the time that you are convicted to the time you are actually executed. I've seen numbers up to ten to 11 years before the execution actually takes place. So there is plenty of time for a person on death row to give serious consideration to his determinable faith. It isn't as though we take somebody out and execute them the very next day.

QUESTION: But people can repent. Why deny people that opportunity to find God much later in life?

DR. DUKE: Because there is penalty to be paid in some of these circumstances and it's appropriate for the state to exercise that penalty, and that's the state's option to do it. And the state doesn't necessarily have to concern itself whether or not a person repents. That's a church function and the church needs to be more engaged in these circumstances in order to help bring them to that point of repentance while there is opportunity.

None of us know how long we have. We all need to repent earlier.

QUESTION: But some of us are more fortunate than others.

DR. ZEHR: On a practical level, I have worked with a lot more lifers than I have people on death rows. But you know, the circumstances you are in there, where there are beatings, you feel like a victim. The system has victimized you and now they are out to kill you. There is nothing -- in the prison culture nothing gives you any culture to begin to understand what you have done and take responsibility for it.

I have worked with lifers to help them understand what they did. It's like a veil coming off of their eyes. They had never -- you would think they would have some idea of what they had done, but they don't. The denial mechanisms they have going into it, the denial mechanisms that are reinforced by the system, and their appeal gave them no reason to go into that.

Part of the reason I worry about that people in that system don't have an experience that helps them turn their life around to begin to repent, to understand what they did, there is no encouragement. There is no opportunity for it in many of those cases.

QUESTION: As a professor here I would like to thank you for coming to our campus. I would like to thank Al Sobel for organizing this.

I have often heard Christians, when talking about a variety of life issues -- and you spoke earlier about abortion -- but maybe also stem cell research and just the whole concept of life issues, often reference the concept humans are created in the image of God. I was

wondering if you could both speak specifically to what you have in mind.

Obviously we don't share God's all omnipotent presence. Exactly which aspects of God -- of which aspects do we partake in that notion that we are created in the image of God and then how does that, in turn, relate to some of these life issues that we have been discussing?

DR. DUKE: I don't know. Your question is what is it about us that is the image of God and scripture doesn't make it clear. Some people want to say that, well, what God meant was we look like him, but later on in the Bible it says we all know what God looks like. So it's hard to believe God would say, I made you in my image but you don't know what I look like, if that was the physical representation.

All we know is the Bible says human beings are created in God's image, that we share something of the divine that nothing else possesses. There is nothing else in the scripture described as being created in the image of God. So there is a uniqueness about humanity that is a uniqueness just of difference of a kind and that we are supposed to be respecting that uniqueness.

Was there another part to your question?

QUESTION: Yes. Thank you. I was just wondering, especially given you are not exactly sure what that means, how that fits into your argument about life issues. What is the connection between being created in God's image, if I understand you correctly, what that means and having a right to life? What is the connection there?

DR. DUKE: Because the Bible teaches that human beings created in the image of God hold a special place in creation and that special place in creation is supposed to be respected and those who violate human life are violating something about God's representation within creation.

There are a lot of guesses about what it means. Some people say it has to do with rational thought. Some people say, Well, it's because human beings are immortal. They have an immortal soul. They are all just guesses.

I could sit here and say a lot of things that people think that it is, but we don't have any definite statement of scripture that tells us what that means. All we know is that means that there is a uniqueness about humanity that's supposed to be respected and that uniqueness lends a sanctity to life that is supposed to be respected.

QUESTION: Can that be forfeited? I could, for example, decide to forfeit this broader purpose that God has in mind in human creation.

DR. DUKE: Yeah. According to the teachings of scripture. We look at the Bible. The Bible says God tells us man is created in his image and that same Bible, when somebody else has violated that, that person themselves is to forfeit the right to life. So the same Bible that teaches about the sanctity of human life also tells us when someone has violated that sanctity they themselves forfeit the right to life.

DR. ZEHR: Jesus comes along and says you have heard an eye for an eye, but I tell you you need to return good for evil. You haven't talked about that. The image of God thing interests me, because I have a feeling that our image of God, our actual image that we have in our head about God, correlates with our attitudes about things like

punishment. And I think, in my 38 years, my belief is this is partly historical.

If you want to read a book, read CKK's book God's Just Vengeance. It traces the history of modern law and modern theology and how they basically distort one another. If you see God as a punishing judge and you better do things or you are going to get zapped, you are going to come out one place. If you believe, as I do, that God is essentially a loving parent and I need to act in the image of God as a loving parent, you come out in a quite different place.

I think we all need to be more conscious of what that image of God is in our head and what the implications of that are.

QUESTION: This is to Dr. Duke. You quote the Bible an awful lot in your argument, especially the Commandment Thou shalt not murder. What I was taught when I was younger, that sort of punishment to take away life is up to God and not for people.

Also, the Bible is used to justify the death penalty. Picking and choosing is sort of fuzzy.

But that's not really my question. My question is, you talked about how race is a factor. While I am not saying that the system of capital punishment is racist because there are more white people on death row than black people, but since the death penalty was reinstated a full third of the people executed have been black. Eighty percent of people on death row has been imprisoned for killing white people even though over half of homicide victims are black.

Dr. Zehr makes the point about the death penalty fostering injustice, so, I mean, your point for your argument is sort of -- it's sort of an eye for an eye, but not on like showing people getting guillotined on television sort of level. But I mean, the Bible in a few instances -- I am having trouble recalling instances -- where it actually condones capital punishment as opposed to just like the idea of God specifically punishing somebody or like God is Abraham's son or Cain and Abel or --

I mean, I guess I am questioning how you are using the Bible to justify the death penalty, because more of the Bible talks about forgiveness and repentance, as he said, than it does about revenge.

And I was -- I would say there is nothing more rabid than taking revenge on somebody who did something to a loved one. Somebody argued that would be worst punishment, someone suffering the rest of their life in prison without parole, than it is to mercifully sort of execute them. The lethal injections, they go to sleep and die rather than being subject to the abuse of the criminal justice system.

I sort of want you to clarify the justification for the death penalty.

DR. DUKE: Well, when I read that passage from Genesis 9, it clearly teaches that who sheds man's blood by man, his blood shall be shed. There is a clear statement that human beings are to be involved in the administration of justice.

I read the passage from Romans where Paul says specifically that the government bears the sword for a reason and Paul uses that word sword synonymously with death in the book of Romans. That very word occurs in other places in that writing where it's intended to communicate the idea of death.

So Paul teaches us that the civil authority has the power of life and death over its citizens. That power has been given to us by God.

We make a distinction, for one thing, between what is the appropriate response for civil authorities as opposed to the appropriate response for individuals, including an appropriate response for Christians. The civil authorities have different responsibilities for the maintenance of society than the individual does. And when we are looking at the Bible's teachings to be about how I am supposed to be thinking about others and how I am supposed to be relating to others, there is no doubt that I am responsible to forgive. I am responsible to give every opportunity for others to repent.

Judgment isn't for me to pass, but, in maintaining a society, civil authorities have a different standard that they are supposed to be operating by. They are supposed to make sure that those who violate life within their community ought to pay a price for that.

But I am not supposed to go out and kill that person. I am not supposed to go out and exact penalty. That's not my responsibility to do that. That's the responsibility given to the civil authority to do.

We believe that the Bible teaches those distinctions, what are my responsibilities in culture as opposed to what the civil authority's responsibilities are in cultural.

Did I answer your question?

QUESTION: Sort of. I mean, I think you can read from the Bible what you want, especially when you get into the Testament. You can interpret them as literally miracles or as people sort of creating those situations like you feed thousands of people with a loaf of bread. You can agree that's literally meaning a loaf of bread. I guess -- it seems like sort of picking and choosing where you want to follow. Other books in the Bible, especially the New Testament, specifically condemn retribution when -- if you are talking about Jesus and let God work it out in the end.

If you are going to use religion to justify the death penalty, I mean, especially if you get to all that sacred, if you are executing people, I mean --

MR. ACKER: If I might, I would like to give Dr. Zehr a chance to offer any comments that he wants and then we will try to move down the line if we can.

DR. DUKE: I will be around a little while longer after this.

DR. ZEHR: It's getting very close to the mass exodus of class, so we need to recognize that.

So much of this depends on the presupposition of which you come to it. I've read the scholars, but I don't see Romans 13 that way at all.

But in my tradition we understand the New Testament as definitive and we understand that what Jesus was trying to do was create in the context of empires -- which is the New Testament world, it was the Roman Empire -- Jesus is trying to provide another way, an alternative way of bringing consciousness of society, creating a community that was lived by different rules who, in doing so, would be a different consciousness of society.

In fact, we are kind of communities of resistance, but not violent resistance. We are being told you do listen to the civil authority, but you need to march to a different drummer.

If you come with that predisposition, you read differently. It's the predisposition we come to this that makes quite a bit of difference.

MR. ACKER: It's, according to my watch, almost 2:15, so if there are those of you who are having to leave about this time, it might be a good opportunity.

In the meantime, those of you who are waiting to ask questions can see the queues are becoming formidable, so we are going to start rewarding precision in the questions if we can. Not to cut anybody short, but if you would please try to state your question, try to get a response, allow as many people as possible to pose their questions.

QUESTION: I wanted to thank you, as a Rabbi, and in a sufficient amount of time -- maybe not sufficient enough -- speaking about issues of morality and justice, particularly when it comes to the law. Since there are no non-Christian witnesses on the panel, I hope I would be allowed both to offer caveat and to reflect.

As Dr. Zehr pointed out, people read the Bible from different perspectives. The Jewish perspective of the Hebrew scripture is very different on many of the issues that were discussed and brought up and many of the scripture passages from the Hebrew scripture that were not brought up today.

I would not want, certainly, my students to think that when they are talking specifically about ethics that there is only that way of reading. There is only the way of reading the Hebrew scripture in a Christian context.

Having said that, I would also request cautioning using the term Judeo-Christian values. Jewish values are formed certainly by Hebrew scriptures, but were built up in the first and second and until today as a very life verbaton of culture and values. They are not Biblical values. They are from the Rabbinic period. Then to suggest that the eye for an eye reading that you offer, Dr. Zehr, is not how I understand the Jewish understanding of an eye for an eye to be.

So the characterization of Old Testament, a term with which I often take issue -- but that's a different story -- the Old Testament justice being an eye for an eye, meaning if you poke out my eye, I am poking out your eye, is actually, Jewish scholars believe, an inaccurate understanding of that.

If I may just put out that request to both of you, to use caution with a globalization of both the phrases from the scripture and also the term Judeo-Christian.

DR. ZEHR: Thank you for that. That's -- I was trying to keep from getting into this discussion around Biblical -- I mean, religious dimensions. I hope you won't lose track of what I was trying to do and just raise the question about the overall moral universe we operate in and the assumptions behind it and some of the implications, also, regardless of what the religious orientation is.

The point I was trying to make is let's think about the moral universe we are reinforcing through the death penalty and ask ourselves if that's what we want to reinforce.

QUESTION: I would just like to preface this question by saying I don't really have as much of a religious background as a lot of people here. Forgive me for that.

However, I do believe that we are -- we live in a society where there is separation of church and state, and you also pointed out how many people here just recently talked about vagueness of the fact that you are studying. And also it seems to me that this topic of somebody's life should not be in the hands of a religious book, but more so in the hands of current times, and we should put that into words and cultural views that we are experiencing now; not from a religious point of view. Because, as far as I know, there is no -- people aren't being prosecuted through the church.

DR. DUKE: Well, I think you have raised a position many people think. They believe the Bible is not applicable currently. We believe the Bible, properly interpreted, is still applicable. It still gives guidelines of how humans are to govern themselves. That's the basic distinction between different understandings of whether or not the Bible remains relevant and how to interpret it.

QUESTION: Hi. Thank you both for being here today. I have a question directed to Dr. Duke. Dr. Zehr, you can feel free to answer this, as well.

Dr. Duke, you stated that capital punishment is not wrong due to the fact that more blacks than whites are on death row. However, if you are looking at the victims, how about the studies that show if you are tried for killing a white victim you are more likely to receive the death penalty?

DR. DUKE: I think some studies indicate that, so it's something that needs to be looked into seriously. I think there is very likely some prosecutorial misconduct here, choosing some cases as opposed to others. I think those need to be looked at.

I think we also need to take into consideration it's not just -- it's not just the homicide that gets someone charged with a capital offense. There are oftentimes -- almost always, I think -- aggravated circumstances, as well.

So people need to not just say how many black homicides are there as compared to how many white homicides are there, but how many of those actually involved aggravating circumstances as well. I just think the issue is more complicated than some folks are giving it credit for being.

QUESTION: Dr. Duke, you had mentioned that the Baptist Convention does not feel the death penalty itself is immoral, but that the administration of it may be immoral. The fact is, the death penalty will always be administered by fallible human beings. Doesn't it -- isn't the logical conclusion that, since the system is always doomed to be fallible, the concept itself is fallible? You can't perfect it on this earth?

DR. DUKE: Well, certainly it's being administered by fallible people and it always will. But that doesn't -- that doesn't eliminate the possibility that you could actually determine that somebody is guilty of a crime and should, therefore, receive the appropriate penalty for that guilt. Just because there are fallible people making those decisions doesn't mean they can't come to decisions that are inescapable.

We just need to make sure that in a case where you can't erase your mistake and go back that there are enough safeguards to make sure that there is no possibility for there to have been error. That's why we believe it needs to only be in the most egregious kind of circumstances and the evidence of guilt needs to be insurmountable.

QUESTION: I'll be very brief. You said you had to kind of chastise those who were against the death penalty for perhaps not also being pro -- anti-abortion or anti-choice, I would say. Doesn't that argument work in reverse, that if you were against abortion you really do not have a logical argument to be for the death penalty?

DR. DUKE: I think, like I said, the Catholic Church takes that position and we appreciate their intent to be consistent on a life ethic. We can't get past Genesis 9 or Romans 9. We still believe those apply. Those are instructions for civil authorities.

There is a basic distinction between abortion and capital punishment. In abortion a human being is dying. In capital punishment someone who took the life of another individual, oftentimes under egregious circumstances, is losing a life. We believe the distinction, as a result, is appropriate.

QUESTION: I know you have already touched on it with an earlier question, but you did keep referring to what the Bible says in your speech and you kept saying in the Old -- I just -- I just feel like not everyone believes in the same religion. How can you take the serious question of death penalty and base it on one religion?

I have always been taught in my government classes separation of church and state. Couldn't you just -- couldn't you also say that it's contradictory in the cases, especially dealing with murder, because you are doing to the person who is convicted of the crime just what that person did to the convicted, which is essentially killing that person?

I don't understand the whole concept of the death penalty. I've never really been for it.

DR. DUKE: Separation of church and state, that's why we believe that the church shouldn't be running the state and the church shouldn't be executing people. That's a function for the civil authority. We believe that God has given the civil authorities the responsibility to do that. It's not carried out by the church because the state is not the church.

We support the right of the state to use capital punishment, but we will expect the state to make sure that it's using capital punishment appropriately and it's actually possible for a state to abuse that authority. When they abuse that authority -- for instance, Nazi Germany -- as opposed to the authority that God had given it in those kinds of circumstances, it's appropriate for the people to stop it from happening.

But we do believe that the Bible teaches that it is a civil responsibility -- not a church responsibility -- to return that responsibility -- or to the state, but that we try to watch it very carefully.

Yeah. I think your question is a legitimate question. How can we say you can murder somebody and then kill somebody? But the difference is somebody who murders has deliberately taken another human life and chosen simply to end that life, and that person is guilty of having engaged in the act that brings their guilt on themselves, so

they forfeit the right to their life as a result of their determination to take someone else's life.

We recognize that a lot of people do say, How can you justify one killing by killing another human being? We recognize that that's a very strong argument. We just don't believe that it's fully supportable.

QUESTION: Dr. Duke, don't you think that the very nature of Christianity requires us to recognize that we all sin? Not such that we all deserve to die, but -- I think that we all deserve to die -- but somebody has already paid the penalty for that?

DR. DUKE: By that argument, it would mean nobody should ever go to jail for anything. You can't apply that argument in civil society. It would be that we should not have any jail, we should not have any prisons. We shouldn't even have a criminal justice system. We should all say and do what we want to do and forgive them.

We can't function like that. We have to have laws and order and society that awards good and punishes evil.

So the question is, where do you cut that off? And that's the real question. But you can't apply your argument to the criminal justice system or you couldn't have criminal justice.

QUESTION: I understand that, sure. But I understand what Dr. Zehr brought up that the restorative justice system would be based on healing people rather than focusing on punishment. Wouldn't that make sense?

DR. DUKE: I think we should be doing more to help the victims. I 100 percent support that. Oftentimes they are lost and forgotten.

Some people think you have all the closure that you need by executing somebody. The truth of the matter is, that's not the case. Oftentimes they need a lot more than they are given. The church needs to do more for those folks, as well as the civil authorities to do a lot more, to come alongside those folks.

MR. ACKER: If I am gauging my time right and seeing right, we have about four minutes and about four people. We don't want anybody to go away unhappy, so we are going to try to take these four questions. But if you will help us by getting to the core of your question to allow some reflection and answers, we would appreciate it.

QUESTION: That's a huge challenge because my heart is beating out of my chest. It's a very emotional topic for me. I came actually down from Toronto, where we do not face this question about the death penalty.

I guess I really want to pick up something Dr. Zehr said about our fundamental human connectedness to one another, that crime is essentially an assault against that connectedness. I worked in my work at a counselor with many crime victims; also offenders. I was in a different position to sit and speak from literature, from research or from different documents on issues even surrounding something like the death penalty. And then one day I found myself in a prison visiting room looking at my beloved husband through glass. He had just committed some very serious offenses and he will be incarcerated for the rest of his life.

And it is a devastation that is indescribable. I guess one thing I would say is that I know that pain cannot be measured nor can more pain erase pain that already exists. What my husband did caused pain right throughout our whole community and I remember thinking at the time, Thank God we don't have the death penalty. That's the one grace that we will be given as a family, that his life will be spared. And that was something he did not afford to someone else.

Dr. Duke, I don't know how it is that you could say to somebody like me, I am going to execute your husband or, I'm going to execute your child or your spouse, and how then you would or anyone of us would be able to go to bed at night with that on our conscience. I think, from a victim's standpoint, as well, I would never want to be in a position to make that kind of decision about someone else's life even if they had taken the life of my loved one.

To bear that kind of responsibility or make that decision is something that I can't imagine. I guess I would like to know how it is you can imagine it would be.

DR. DUKE: First of all, I'm sorry for your own circumstance. It sounds tragic. I wish it never happened to anybody, and I wish human beings could actually figure out how to get along with each other and forgive each other and give each other the space that they are supposed to get.

But we don't live in a situation like that. We live in a time when some people have no regard for other human life. And you come to a point where some crimes are so horrific that the state has failed to recognize the nature of those crimes if it fails to take the full measure of penalty against individuals who engage in some of that behavior.

As I said, the state passes the judgment not only on the person, but the attitude that takes life so lightly that an individual could believe that they have a right or the power to do what they do to other human beings in some circumstances. It's a judgment on the attitude as much as it is a judgment on the act. And in some of those circumstances we just believe that the civil authorities have been given a right by God to execute people under certain circumstances and most Southern Baptists support the state's right to do that.

MR. ACKER: Thank you. I'm sorry. I didn't mean -- what I was going to say is I'm sure our panelists will be available during our break and these conversations then could continue. Thank you very much.

QUESTION: Hello, Dr. Duke. I have a quick question about you using Romans as your New Testament foundation for supporting the death penalty. Saul, before he became a -- yeah. Paul. Paul before he had been Christian had been Saul; correct, and Saul had killed Christians by the wagon load. I really have big qualms with you interpreting his words, the sword, and think the sword is synonymous with death. If you are going to pick a synonym, in fact, it could be justice. Perhaps death is part of the justice.

How is it -- how is it you are so certain that death is the synonym for a sword? I really have trouble understanding how Paul could wish to give government the sword to try to put people down when if he had been in a different -- years earlier, why, he would have been killed by his own government. I really wonder how you can be so sure he is giving government that sword.

DR. DUKE: Because every time Paul in the book of Romans, when he used that word, which occurs in that passage of Romans -- he uses that word in other places in Romans -- it's obvious that he uses that word as a synonym for death, that it refers to being subjected to death. So that there is no doubt when Paul uses that word in Romans 13, he says the civil authority has even the power -- has the authority, even the power of death.

It's possible Paul lived all of his life with that threat and likely did actually eventually suffer under that. It wasn't that Paul was willing to give the state the right to that. Paul believed that that's what God gave the state and he was simply communicating in his writings when he believed God had empowered the state to do.

I wouldn't say that he was giving them that right. He was acknowledging that right had been given.

QUESTION: Dr. Zehr, how would you be able to stop someone who was sentenced to life in prison and while in prison he commits more crimes to inmates or guards or he happens to kill somebody else in prison, how would you be able to stop that individual or other individuals that do the same thing without ending their life?

DR. ZEHR: Well, I don't think it's very clear that that threat is actually a deterrent even in those circumstances, but I think we need to be doing something a whole lot different about the culture of prison generally. Prisons are a trauma factory. They make people worse than they were. They increase the chances of this.

What I would like to see is get the people out that shouldn't be there. There are a lot of people that shouldn't be there. And then let's turn these places into a place that -- a more normal kind of place where we teach positive values. Instead we keep reinforcing negative values through our justice system.

It's not a complete answer, but it's not clear to me that the death penalty is a deterrent to homicide inside the prison, either.

MR. ACKER: Thank you all for your terrific questions. I wish we had the rest of the afternoon to discuss them. As it is, I believe we resume at 3:00 o'clock. Hopefully you will be able to return at that time.

But before that, would you please join me in thanking our panelists.

(Whereupon, the panel discussion concluded at 2:35 p.m.)