

**THE DEATH PENALTY: A VIOLATION OF
HUMAN DIGNITY?**
2022 Annual Symposium
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WELCOMING ADDRESS

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Thank you, President Armstrong, for opening this conference and for your leadership of this university, a Catholic institution protecting and celebrating human life. Thank you also, Dean Lawson, for focusing your deanship on issues of social justice, and for suggesting this topic of the death penalty two years ago. A most thoughtful and apposite idea for our program which is dedicated to the fostering of human rights from an intercultural perspective and to bringing about an order of human dignity. A final thank you to our students who indefatigably worked on putting this program together, the excellent speakers from inside and outside this country. I wish to express my particular appreciation for the J.D. Editor-in-Chief of the *Intercultural Human Rights Law Review*, Ms. Rossanna Hernandez-Mitchell, and the LL.M. Editor-in-Chief, Judge Alexandre Alves, who will contribute later with a most helpful comparative perspective from his home country of Brazil and the Western hemisphere. With single-minded determination, the *Law Review's* Symposium Editor, Mr. Andres Lopez, has assembled a most impressive line-up of speakers and conducted an insightful interview with Sister Helen Prejean, the leader of the Catholic movement opposing capital punishment consistently over decades, ultimately succeeding in The Holy Father, Pope Francis' revision of the Catechism opposing this earthly sanction without exception in 2018.

As The Holy Father teaches us, “[t]oday, ... there is an increasing awareness that the dignity of the person is not lost even after the commission of very serious crimes. In addition, a new understanding

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has emerged of the significance of penal sanctions imposed by the state. Lastly, more effective systems of detention have been developed, which ensure due protection of citizens but, at the same time, do not definitively deprive the guilty of the possibility of redemption. Consequently, the Church teaches, in light of the Gospel, that ‘the death penalty is inadmissible because it is an attack on the inviolability and dignity of the person,’ and she works with determination for its abolition worldwide.”¹

This moral assessment -- in fact, condemnation -- of the death penalty is an essential part of Catholic social teaching. St. Thomas University’s pride, Professor Roza Pati, Co-Director of our Program, is an essential part of The Vatican’s work on social doctrine, first, as the only American member of the Pontifical Council for Justice and Peace, and now as a member of the Dicastery for Promoting Integral Human Development.

My own relationship with this fraught, scary topic has been ambivalent and developing. I didn’t think much about it growing up, as in the new Germany after the Holocaust the death penalty had been abolished by the constitution, the Basic Law of 1949, as is common in the states of Europe of today. Then, on April 19, 1995, the Murrah Federal Building in Oklahoma was bombed and my dear friend, Susan Ferrell, who had just started her workday in the Housing and Urban Development office, was killed, with her beautiful body so disintegrated that only her dental records could identify her.

My emotions were raw, as expressed at the time:

Wednesday afternoon, April 19, 1995: The TV’s transreal image of the Federal Building. Ripped open, this massive structure, concrete and dark, blown up, the inside laid bare like the entrails of a slaughtered animal. Hell on Earth.

Where is Susan?

¹ New revision of number 2267 of the Catechism of the Catholic Church on the death penalty – Rescriptum”ex audientia SS.mi”, 02.08.2018.

Her office, 8th floor, North Side, the room utmost to the left. Gone – in its place, a gaping hole. Only the outside wall remains, shy and lonely, but somewhat defiant. The collection of rocks, the Seminole nameplate, the desk, the angel behind it – gone as if it never existed. Blasted away, the charred remains “pancaked,” merged into the rubble of death with children, baby toys, human beings conceived of and sustained by love now frozen in a final moment imposed by a heart cold as stone.

A heart who made himself the judge of who’s to live and who’s to die. No confrontation; no chance to escape; instant immolation, asphyxiation, or slow flickering off of the candle of life under a mountain of steel and rock; the final crushing. Dante’s Inferno. ...

Self-willed judge of life and death: You can’t take her away. Susan is here, among us. Her spirit, amazing grace, is in communion with all of us she touched. She will pray for you from above.²

I felt like I could have been the executioner of this cold-blooded, remorseless murderer, Timothy McVeigh, myself. He destroyed and scarred forever many lives, including the loved ones of his direct victims. With faith in the Lord, and further reflection over time, I have evolved, and I could not perform this role of executioner anymore. Still, the perspective of the victims of crime needs to be present in the deliberations. What is the proper respect due their experience? Should Christian forgiveness be the guiding light for our secular social policy? What should be the law? How can human dignity be preserved and safeguarded? Our panels of eminent experts will wrestle with these issues throughout this morning.

² JSW, *Dedication to Susan Ferrell*, 7 ST. THOMAS L. REV. ii (1995).

Continuing enforcement of the death penalty is of particular salience for us, as we are located in the State of Florida, which, along with other states of the Union and the federal government, persists in upholding, and often executing, capital punishment.

Contrary trends, influenced, at times, by information from abroad, may be seen on the horizon. The Supreme Court, in particular, has taken a distinctive role in outlawing capital punishment for minors and the mentally disabled, even child rapists. Outgoing Supreme Court Justice Stephen G. Breyer, in a detailed 41-page dissent in the 2015 case of *Glossip v. Gross*, found that “pending further review, the death penalty is unconstitutional”³ under the Eighth Amendment as a form of cruel and unusual punishment. Sometimes dissents speak to the future, even presage it. May God bless this event, and may it contribute to the establishment of an order of human dignity, where life is the central value and the flourishing of every human being made in the image of God.

³ *Glossip v. Gross*, 135 S. Ct. 2726, 2755 (2015) (Breyer, J., dissenting).