

Divine Mercy and the Death Penalty

Leela Ramdeen (Seminar organized by the Greater Caribbean for Life and the Catholic Commission for Social Justice at Our Lady of Fatima, **Sat 27 Feb 2016** from 3-5pm)

Good afternoon, brothers and sisters. Welcome to our Seminar. At this time in our history in TT, during this Lenten period and during this Jubilee Year of Mercy, it is important for us to reflect on issues such as Divine Mercy and the Death Penalty.

Our response to crime in our region is a moral test for all of us. Any discussion of the death penalty must be considered in the context of, for example, nation building, character development of citizens and so on.

We all have a vision of safer, just and peaceful societies; societies in which the rule of law prevails and in which there are conditions that will enable each person to realise his/her potential. It is time for us to acknowledge that the death penalty will not help us to realise this vision. The death penalty is a human rights issue. It dehumanises all of us; it tramples on the dignity of each human person - including the offender, the victim and their families.

Let me state from the outset that CCSJ and GCL believe that society has a right to protect itself from persons who commit heinous crimes and offenders must be held accountable. However, we believe that non-lethal means are sufficient to defend and protect society from offenders.

While we condemn the rise of violent crime in the Greater Caribbean region, and stands in solidarity with the victims of crime, we reject the notion that capital punishment will act as a deterrent or foster respect for life in our communities. What is urgent is for governments to consider the root causes of crime.

We continue to address the symptoms of crime and not the root causes. In spite of the billions of dollars that our countries allocate in annual national budgets for national security, citizens do not feel safe. Death and destruction continue to stalk our lands.

It is timely that on Sunday 21 Feb 2016 Pope Francis issued a statement on the death penalty, noting that a conference on the issue was to be held in Rome by the Community Sant'Egidio (9th Conference of Ministers of Justice etc). It is to be noted that Pope Francis has repeatedly called for an end to the death penalty.

In 2013 the Community invited me to send a 5 minute video clip to the gathering at the 8th International Congress of Ministers of Justice for the abolition of the Death Penalty – held in Rome). See: STARTS JUST AFTER 1HR 45 MINS (1.45)



[Play video](#)

Here is a ZENIT transcription and translation of Pope Francis' address on Sun 21 Feb 2016 before and after praying the midday Angelus with those gathered in St. Peter's Square <https://zenit.org/articles/full-text-of-angelus-address-on-the-trip-to-mexico> :

“Dear brothers and sisters, tomorrow, Monday, an international conference begins in Rome that is titled “For a World Without the Death Penalty,” promoted by the Sant'Egidio Community.

I desire that this conference might give new strength to efforts to abolish the death penalty. An increasing strong opposition to the death penalty, even as an instrument of legitimate social defense, has developed in public opinion, and this is a sign of hope. In fact, modern societies have the ability to effectively control crime without definitively removing from the criminal the possibility of redeeming himself.

The issue lies in the context of a perspective on penal justice that is ever more conformed to the dignity of man and God's design for man and for society. And also penal justice open to the hope of being reintegrated in society. The command "thou shalt not kill" has absolute value and refers to the guilty as well as the innocent.

The Extraordinary Jubilee of Mercy is a good occasion to promote in the world a growing maturity in forms of respect for life and the dignity of each person. Because even a criminal has the inviolable right to life, a gift of God.

I make a call to the consciences of those who govern, so that they come to an international consensus aimed at abolishing the death penalty. And to those among them who are Catholic, that they carry out a gesture of courage, giving an example: that the death penalty not be applied in this Holy Year of Mercy.

All Christians and men and women of good will are called today to work for the abolition of the death penalty, but also for improving the conditions of prisons, in respect of human dignity and of those people deprived of freedom."

As Deborah Castellano Lubov reported (<https://zenit.org/articles/feature-cardinal-marx-says-popes-pronouncements-on-death-penalty-are-clear-and-insistent/>), Cardinal Reinhard Marx, Archbishop of Munich and President of the Pope's advisory council of Cardinals attended the Congress. In his address to those gathered, he said that taking on the issue of capital punishment represents a broader battle for the defense of life. "He expressed how good it was to bring this idea of abolishing the death penalty to the forefront in this Holy Year, for it enables an even greater public to be reached, including governments and parliaments. 'I welcome this initiative...It's one step in the greater battle for life, for an integral view of life...I'm deeply convinced there's not justice without life.'"

In the past, Pope Francis has followed the footsteps of St Pope John Paul II and Pope Benedict XVI on this issue. Cardinal Marx said:

“...the attitude which Pope Francis demonstrated at Sunday’s Angelus address on the death penalty was not always “the way of the Church. We must admit this,” he said.

“However, he continued, especially under St. Pope John Paul II we saw great developments, in all the ways in which he called for defense of life, from conception to natural death, in all circumstances. Noting that over the years, new developments and some courageous decisions have been undertaken to combat capital punishment, the cardinal quoted Pope Benedict’s words in 2011 and noted that his recommendations have been followed.

“After greeting the delegations from various countries taking part in the meeting promoted by Sant’Egidio on the theme, ‘No Justice Without Life,’ Pope Benedict said, “I express my hope that your deliberations will encourage the political and legislative initiatives being promoted in a growing number of countries to eliminate it, and to continue this substantive progress made in conforming penal law to both human dignity of prisoners and the effective maintenance of public order.”

“Cardinal Marx highlighted that while John Paul II was the one who carried this attention to such abolishment forward, Benedict and Francis have wholeheartedly followed suit. “We are not just working toward a more just society,” he noted, “but one that’s more human. In this Holy Year of Mercy, we can commit ourselves to abolishing the death penalty and fight for it on the political scene. So often we hear politicians say: ‘Revenge,’ ‘Revenge,” the cardinal lamented, saying, “Revenge is never the solution to any political or social problem.”

“Pope Francis has encouraged the Catholic Church throughout the world to become “protagonists of mercy,” Cardinal Marx said, noting that the Pontiff’s recent pronouncements on national punishment are “clear” and “insistent.”

“Cardinal Marx also recalled how Pope Francis also made this point at the US Congress, during his Apostolic Visit to the United States in September, when he said: “The Golden Rule also reminds of us our responsibility to protect and defend human life at every stage of its development. This conviction has led me from the beginning of my ministry to advocate at different levels for the global abolition of the death penalty.”

“For the Rule of Law, Pope Francis says the death penalty represents a failure, as it obliges the state to kill in the name of justice,” Cardinal Marx underscored, “rather than work toward a society of mercy and defending human life.”

*In a letter to Mr Federico Mayor, President of the International Commission against the Death Penalty on 20 March 2015

https://w2.vatican.va/content/francesco/en/letters/2015/documents/papa-francesco_20150320_lettera-pena-morte.html , Pope Francis said, inter alia:

“I would like to express my personal gratitude, and also that of men of good will, for your commitment to bring about a world free from the death penalty and for your contribution toward the establishment of a universal moratorium on executions throughout the world, in order to abolish capital punishment.

“The Magisterium of the Church, beginning from Sacred Scripture and from the experience of the People of God for millennia, defends life from conception to natural death, and supports full human dignity as in the image of God (cf. Gen 1:26). Human life is sacred because from its beginning, from the first moment of conception, it is the fruit of the creative action of God (cf. *Catechism of the Catholic Church*, n. 2258), and from that moment, man, *the only creature ... that God wanted for his own sake, is the recipient of God’s personal love* (cf. *Gaudium et Spes*, n. 24).

“States can kill by their action when they apply the death penalty, when they lead their people to war or when they perform extrajudicial or summary executions.

They can also kill by omission, when they do not guarantee their people access to the basic necessities of life. “Just as the commandment ‘Thou shalt not kill’ sets a clear limit in order to safeguard the value of human life, today we also have to say ‘thou shalt not’ to an economy of exclusion and inequality” (*Evangelii Gaudium*, n. 53).

“Life, human life above all, belongs to God alone. Not even a murderer loses his personal dignity, and God himself pledges to guarantee this. As St Ambrose taught, God did not want to punish Cain with homicide, for He wants the sinner to repent more than to die (cf. *Evangelium Vitae*, n. 9)...

“Today capital punishment is unacceptable, however serious the condemned’s crime may have been. It is an offence to the inviolability of life and to the dignity of the human person which contradicts God’s plan for man and for society and his merciful justice, and it fails to conform to any just purpose of punishment. It does not render justice to the victims, but rather foments revenge.

“For a constitutional state the death penalty represents a failure, because it obliges the State to kill in the name of justice. Dostoyevsky wrote: “To kill a murderer is a punishment incomparably worse than the crime itself. Murder by legal sentence is immeasurably more terrible than murder by a criminal”. Justice is never reached by killing a human being.

“The death penalty loses all legitimacy due to the defective selectivity of the criminal justice system and in the face of the possibility of judicial error. Human justice is imperfect, and the failure to recognize its fallibility can transform it into a source of injustice. With the application of capital punishment, the person sentenced is denied the possibility to make amends or to repent of the harm done; the possibility of confession, with which man expresses his inner conversion; and of contrition, the means of repentance and atonement, in order to reach the encounter with the merciful and healing love of God.

“Furthermore, capital punishment is a frequent practice to which totalitarian regimes and fanatical groups resort, for the extermination of political dissidents, minorities, and every individual labelled as “dangerous” or who might be perceived as a threat to their power or to the attainment of their objectives. As in the first centuries and also in the current one, the Church suffers from the application of this penalty to her new martyrs.

“The death penalty is contrary to the meaning of *humanitas* and to divine mercy, which must be models for human justice. It entails cruel, inhumane and degrading treatment, as is the anguish before the moment of execution and the terrible suspense between the issuing of the sentence and the execution of the penalty, a form of “torture” which, in the name of correct procedure, tends to last many years, and which oftentimes leads to illness and insanity on death row.

“In some spheres there is debate over the method of execution, as if it were about finding “the best” way. In the course of history, various lethal mechanisms have been defended because they reduced the suffering and agony of the condemned. But there is no humane form of killing another person.

“Today, not only are there means of effectively addressing the crime without definitively depriving criminals of the chance to reform (cf. *Evangelium Vitae*, n. 27), but there is also a heightened moral sensitivity regarding the value of human life, arousing public opinion in support of the various provisions aimed at its abolition or at suspending its application and a growing aversion to the death penalty (cf. *Compendium of the Social Doctrine of the Church*, n. 405).

“On the other hand, life imprisonment, as well as those sentences which, due to their duration, render it impossible for the condemned to plan a future in freedom, may be considered hidden death sentences, because with them the guilty party is not only deprived of his/her freedom, but insidiously deprived of hope. But, even though the criminal justice system may appropriate the guilty parties’ time, it must never take away their hope.

“As I said in my address last 23 October, the death penalty directly concerns the denial of the love for enemies preached by the Gospel. “All Christians and men of good will are thus called today to fight not only for the abolition of the death penalty, whether legal or illegal, and in all its forms, but also in order to improve prison conditions, with respect for the human dignity of the people deprived of their freedom”.

“Dear friends, I encourage you to continue with the work you are doing, because the world needs witnesses of the mercy and the tenderness of God.”

***You may recall that during his address to the joint meeting of the US Congress in Sept 2015, Pope Francis called for the “global abolition” of the death penalty. Inter alia, he said: “Every life is sacred, every human person is endowed with an

inalienable dignity, and society can only benefit from the rehabilitation of those convicted of crimes...I also offer encouragement to all those who are convinced that a just and necessary punishment must never exclude the dimension of hope and the goal of rehabilitation. “

*** And what about the situation here in TT? The Honourable the Chief Justice, Mr Justice Ivor Archie of Trinidad and Tobago, said at the opening of the Law Term, 2010: “I am yet to see any persuasive empirical evidence that executions significantly reduce murder or crime rates generally... social scientists...suggest(s) that the certainty of conviction, and within a reasonably quick time, is a more potent factor.” Today about 540 persons are awaiting trial for murder and our detection rate is about 14% – there is no swift or certain punishment here.

At the opening of the Law Term this year (16 September 2015), he said that: “Over the past few years the number of persons awaiting trial for murder has risen to more than 514 (*about 540 as at 27 Feb 2016*). Common sense tells me that by itself the death penalty is not the solution. Apart from the dubiousness of its value as a deterrent...”

(CJ Archie said as he revealed that it costs the State \$13,000 a month to incarcerate a prisoner. We need to refer also to the issue of recidivism - to which Chief Justice, Ivor Archie refers. TT’s Inspector of Prisons, Daniel Khan, says 74% of our people reoffend within 3–5 years of leaving prison. Clearly what we are doing is not people centred enough. The revolving door keeps leading many former inmates back into prison. The challenge is to prevent persons going through the door in the first place. And while countries like TT have embraced the concept of Restorative Justice, we have not put in place the infrastructure necessary to implement this approach effectively).

Frank Friel, Former Head of Organized Crime Homicide Task Force, Philadelphia, rightly says: "The death penalty does little to prevent crime. It's the fear of apprehension and the likely prospect of swift and certain punishment that provides the largest deterrent to crime."

The words of High Commissioner for Human Rights, Navi Pillay, are worth noting. In 2012 she said: “Any suggestions that the death penalty has a meaningful

deterrent effect have been overstated, with little research supporting such an assertion.”

As Amnesty International reports, **as of July 2015**, 101 countries have abolished the death penalty for all crimes. (140 countries have abolished the death penalty in law or practice). In 2014 at least 22 countries around the world carried out executions. At least 2,466 people were sentenced to death worldwide – up 28% on 2013. No accurate figures for some countries like China, Iran, Iraq, Saudi Arabia etc.

BACKGROUND INFORMATION:

- Abolitionist for all Crimes: 98 (July 2015 = 101) (latest in 2016 – Suriname and Mongolia)
- Abolitionist for Ordinary Crimes only: 7
- Abolitionist in Practice: 35 (in their crim. codes but have not carried out DP in 10 yrs or more)
- Retentionist Countries: 56

Total Abolitionist in law or practice: 140

Information accurate as of December 31, 2014 (Amnesty International)

<http://www.deathpenaltyinfo.org/abolitionist-and-retentionist-countries>

“Some countries have returned to using capital punishment after suspending the practice for many years. Jordan and Pakistan resumed executions late in 2014, mostly in terrorism cases. Pakistan has put to death an estimated 300 people since then...

The United Nations says China carries out the largest number of executions, estimating that 6,687 people were put to death there from 1999 to 2003.

While the United States is one of the top five executioners, there has been an effort among state governments to limit the use of the death penalty (the federal government still uses it, though rarely). At least 12 states have a moratorium or an

official hold on the use of the death penalty, and in several others, courts are considering challenges to execution by lethal injection, according to the Death Penalty Information Center.”

<http://www.nytimes.com/2016/01/05/world/middleeast/fewer-countries-use-death-penalty-but-death-sentences-surge.html? r=0>

CARIBBEAN REGION:

The Greater Caribbean region which is also known as the Caribbean Basin. It is composed of 25 countries.

It includes 13 Caribbean island nations, the Caribbean states of South America, and the countries of Central America and Mexico (in addition to the US, British, Dutch and French Caribbean territories).

In the Greater Caribbean, 11 countries are abolitionist in law: Colombia, Costa Rica, Dominican Republic, El Salvador (for ordinary crimes only), Haiti, Honduras, Mexico, Nicaragua, Panama, Suriname and Venezuela. “Capital punishment has been abolished for decades in the Spanish-speaking Dominican Republic, and the death penalty is not used in French, British and Dutch dependencies in the Caribbean. Religious and cultural opposition to the death penalty holds sway in the U.S. Caribbean island of Puerto Rico, where jurors often reject federal prosecutors' request for capital punishment.”(www.jamaicaobserver.com)

1 country is considered abolitionist in practice: Grenada (last hanging took place in 1978).

13 countries in this region are retentionist: Antigua and Barbuda, Bahamas, Barbados, Belize, Cuba, Dominica, Guatemala, Guyana, Jamaica, St. Kitts & Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago.

- and nearly all are English-speaking. Most of them have consistently voted against the UN General Assembly resolutions on a moratorium on the use of the death penalty and have signed the Note Verbale, dissociating themselves from the

moratorium. For example, on 18 December, 2014, twelve Caribbean States voted against Resolution 69/186, representing over 30% of the votes against.

TT and Barbados still retain the mandatory death penalty for murder – though Barbados plans to remove the mandatory death penalty from its criminal code – legislation currently before Parliament. Section 4 of the Offences against the Person Act 1925 (TT) provides that every person convicted of murder shall suffer death. (See 2011 attempt to amend TT’s Constitution via the Constitutional (Amendment) (Capital Offences) Bill 2015 – to, inter alia, operationalise the death penalty in TT. The Bill failed as the then Opposition did not support it in Parliament).

The paradox of the retentionist countries in the Caribbean is that since December 2008, when Charles Laplace of St Kitts and Nevis was hanged, there have been no other executions in the region.

Anthony Briggs is the last person to have been executed by the Republic of Trinidad and Tobago – in July 1999. A month earlier, Dole Chadee and eight of his gang members, were hanged in Trinidad and Tobago. Even though the Caribbean retentionist states have not carried out any execution for the last ten years, many have sentenced persons to death during this decade. While we face many challenges in the region, there are positive developments which we acknowledge. For example – see the abolition of the death penalty by the Parliament of **Suriname** on 3 March, 2015.

***See landmark decision in the Jamaican case of PRATT AND MORGAN (1993):** see what the Law Lords of the Privy Council said. Lord Griffiths, giving the decision of the Board, stated that “in any case in which execution is to take place more than five years after sentence there will be strong grounds for believing that the delay is such as to constitute inhuman or degrading punishment or other treatment.” The effect of this case is that individuals who spend more than five years on Death Row cannot be executed”

As Kenneth Hall says: “Once result of this decision was that it placed pressure on the State to ensure that all appellate procedures before the courts are completed in 5 years. In practice, however, this has been difficult. In the first place, during the

five-year period, the convicted person will have the right to appeal to the Privy Council with respect to both personal liability and on the question of the constitutionality of the sentence: this involves up to 5 different appeals. Secondly, the convicted person will also have the right to petition the relevant human rights bodies.” E.g. the UN Human Rights Committee and the Inter-American Commission on Human Rights.

Note that Jamaica and TT withdrew from the First Optional Protocol to the ICCPR to which they had initially acceded. This Protocol sets up the scheme for petitions to the UN Human Rights Committee. See UWI lecturer, John Knechtle’s blog, An update on the death penalty in TT (27 March 2015): <http://www.iconnectblog.com/2015/03/an-update-on-the-death-penalty-in-trinidad-tobago/> : “In 1998, Trinidad and Tobago withdrew from the American Convention on Human Rights, citing the inability of the Inter-American Commission to deal with applications in respect of capital cases expeditiously. In May 1998, Trinidad and Tobago withdrew from the First Optional Protocol to the ICCPR because it felt that prisoners who had been sentenced to death were abusing the procedure which allowed for petitions to the Human Rights Committee. However, in August 1998, Trinidad and Tobago re-acceded to the Optional Protocol with a reservation to article 1 thereof to the effect that the Human Rights Committee shall not be competent to receive and consider communications relating to any prisoner who is under sentence of death in respect of any matter relating to his prosecution, his detention, his trial, his conviction, his sentence or the carrying out of the death sentence on him and any matter connected therewith. In *Kennedy v Trinidad and Tobago*, the Human Rights Committee ruled that this reservation was incompatible with the object and purpose of the Optional Protocol. The Committee stated that it could not accept a reservation which singled out a certain group of individuals for lesser procedural protection than that which was enjoyed by the rest of the population. Trinidad then denounced the Optional Protocol for a second time in 2000. Trinidad is not a party to the Death Penalty Protocol of the American Convention on Human Rights.

“In 2011, the current government of Trinidad and Tobago sought to amend the Constitution in relation to the implementation of the death penalty. The Constitution (Amendment)(Capital Offences) Bill 2011 was introduced before Parliament to address the concerns of the JCPC regarding the mandatory nature of the death penalty. Clause 4 of the Bill pertained to the creation of the categories of murder 1, 2 and 3 (similar to first, second, and third degree murder in the U.S.), the

mandatory imposition of the death sentence in relation to murder 1, the circumstances in which the death sentence or life imprisonment may be imposed for murder 2 and other matters connected thereto. Clause 5 of the Bill sought to make amendments relating to the procedure concerning pardon and appeals. However, the Bill was defeated with 29 votes for and 11 against (the Bill needed 31 votes for to be passed). Whether the Bill is in fact re-introduced in 2015, and whether it can be passed in an election year when cooperation between the leading parties is strained, remains to be seen.”

Martin Daly, Attorney-at-Law & former Senator, TT, said in his column on 12 Mar 2011: “Whether that withdrawal has been effective to remove access to these two international bodies is unclear. What is important is that, albeit by different reasoning, the Courts have upheld the right of condemned persons to access these international bodies to which Trinidad and Tobago has subscribed by its entry into the relevant international treaties.

“Condemned persons petition these international bodies in order to obtain a recommendation that their sentence be commuted. The most difficult practical question is whether it is possible by domestic legislation to impose limits on the length of time Trinidad and Tobago should await the decision of the two international bodies, and by what means to do so...I maintain that limiting access to the two international bodies, to which there can be two separate petitions, is the most difficult of the problems of implementation of the death penalty, particularly because, as I mention later in this column, our own Mercy Committee must await and consider the report of the international bodies. In addition one cannot anticipate how else a nexus between condemned persons and international bodies may be maintained by rulings of the highest courts.

“Quite apart from petitions to international bodies, condemned persons have a right to ask the Advisory Committee on the Power of Pardon, established by our Constitution and popularly known as the Mercy Committee, for a respite from the death penalty. Until 2000, the Privy Council had held that the exercise of the prerogative of mercy was immune from challenge by judicial review.

“The Privy Council changed its mind in the case of *Lewis v Attorney General for Jamaica* and opened the way to challenges the decisions of the Mercy Committee. Such challenges will inevitably lead to further delay in implementation of a

sentence of death. It also set out the procedure to be used by the Mercy Committee to ensure fairness in the carrying out of the powers entrusted to it by our Constitution.

“The Mercy Committee must do the following: Notify the condemned person that the Committee will be meeting to consider his or her case; communicate to the condemned person the written report of the trial Judge and any other information which will be considered by the Committee; invite the condemned person to make written representation to the Committee; when the report of the international human rights is available that report should be considered and, if the Committee did not accept the report it should explain why.

“Regarding the change of direction by the Privy Council in Lewis, in a pungent dissent Lord Hoffman said: ‘If the Board feels able to depart from a previous decision simply because its members on a given occasion have a 'doctrinal disposition to come out differently', the rule of law itself will be damaged and there will be no stability in the administration of justice in the Caribbean’.

“The last of the known existing hindrances is prison conditions. Also in Lewis, the Privy Council (Lord Hoffman again dissenting) opened the way for a challenge to the implementation of the death penalty on the basis of intolerable prison conditions when previously it had been held that complaints of prison conditions would not affect the legality of executions.

“Now the Courts must investigate complaints of prison conditions and consider whether deplorable prison conditions would aggravate the infliction of the death sentence so as to amount to cruel and unusual treatment or punishment.

“It must also be emphasised that whether or not Trinidad and Tobago should have a death penalty is a quite separate issue. Once our elected representatives decide across party lines that the existing mandatory death penalty should remain, then there is serious technical legislative work to be done to provide a sound amendment to the Constitution for that purpose. It cannot be done in a hostile atmosphere.

There are a number of other cases that are of note in our region:

- - in the 1996 TT case of Guerra v Baptiste, the JCPC stated that 4 years and 10 months was too long a period to hold someone on death row after sentence;

- - in 1997 in the Bahamian case of *Henfield v AG of Bahamas*, the JCPC stated that 3 1/2 years constituted inappropriate delay;
- - in 2009 in *Trimmingham v The Queen* – a case from St Vincent and the Grenadines, the Law Lords laid down 2 key principles as to whether the death penalty should be imposed: 1. that the death penalty should be imposed only in cases which, on the facts of the offence are the most extreme and exceptional, ‘the worst of the worst’ or ‘the rarest of the rare’; and 2. that there must be no reasonable prospect of reform of the offender and that the object of punishment could not be achieved by any means other than the ultimate sentence of death’.
- - in the 2011 Bahamian case of *Ernest Lockhart v The Queen*, Lord Kerr referred to another 2011 case – *Maxo Tido v The Queen*. Inter alia, he said that if the State is thinking of imposing the death penalty, it is not enough to submit a probation report. There may be a need also for more than a consultant psychiatrist’s report. There may be a need also for a report from a clinical psychologist.

* See the Trinidadian cases of *Roodal* and *Matthew* where the Privy Council had to determine the constitutionality of the death penalty.

* See also the cases of *Neville Lewis v the AG (Jamaica)* and *Thomas v Baptiste (TT)*. As Lord Anthony Gifford QC said in his paper: *The death Penalty: Developments in Caribbean Jurisprudence*

<http://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1175&context=ijli> :

“In the case of *Neville Lewis* the Privy Council introduced further safeguards before executions could be carried out.⁶ It held that a person on death row was entitled to know what material was being considered by the Jamaican Privy Council when it was advising the Governor General on the exercise of the prerogative of mercy, and to make representations to that body. Secondly, they held that when a prisoner had exercised his right to petition one of the international human rights bodies to which Jamaica was a party, the local Privy Council should wait for the report of those bodies before giving its advice. It was this decision which prompted the then Attorney General of Jamaica to say that it was impossible to complete all the appeals and other procedures within five years.”

See what UWI lecturer, John Knechtle says: "...in *Lewis v Attorney-General of Jamaica*, the Privy Council held that by reason of the accession of Jamaica to international conventions and of the fact of allowing individual petitions to international human rights bodies (albeit the right to petition such bodies had not been incorporated into domestic law), the appellants on petitioning the Privy Council of Jamaica for mercy were entitled to the protection of the law in accordance with s 13 of the Constitution, and thereby to the right to complete the process of petitioning a human rights body and for the report of that body to be received by the Privy Council of Jamaica for consideration before it dealt with the petitions for mercy, and to the staying of their executions until the reports had been received and considered... The three decisions mentioned, *Thomas*, *Lewis* and *Joseph and Boyce*, are quite concerning decisions. This is so because these cases have set the precedent that unincorporated international treaties may be directly enforceable in domestic law regardless of whether or not a country is dualist or monist."

See also the Newsday report on 22 June 2006, <http://www.newsday.co.tt/court/0,39472.html> "Douglas Mendes argued yesterday that the Caribbean Court of Justice (CCJ) should not depart from decisions of the Judicial Committee of the Privy Council. Mendes, who appeared for convicted Barbados killers Jeffrey Joseph and Lennox Ricardo Boyce, said Barbados was bound to follow the Privy Council cases. 'We may feel that this court is not empowered to follow any case with respect to this case. Even though you have the power to depart, you are not bound to do so,' Mendes added.

"Justice Rolston Nelson, one of the CCJ judges, said, 'We are the highest court, there is no court higher than this.' Mendes replied, 'You also have the power to depart from your own decisions... in the future.' Mendes was adamant that the CCJ should follow them. In *Lewis*, the Law Lords ruled that convicted killers have a right to be heard before the Mercy Committee before they are hanged. In *Thomas*, the Privy Council said that before killers are executed, their petitions before international human rights bodies should be determined.

"Mendes said persons on death row acquired a legitimate expectation to pursue

petitions to the human rights bodies in their attempt to convince those bodies that they should not be executed. ‘This involves life and death,’ Mendes told the court. ‘The legal system relating to the death penalty would be worsened if you do not follow those cases,’ Mendes argued.

“Mendes pointed out that complaints are made by condemned prisoners to these international bodies, detailing contravention of their rights during the trial, that their lawyers were incompetent, delays, that prison conditions were bad, or errors made by the judge. The Trinidadian lawyer said the international bodies would make a recommendation that the sentence of the prisoner be commuted, or that that person receive compensation.

“De la Bastide responded, ‘These are matters which should have been raised in the internal process. If they were raised, why did they get a further opportunity to raise these points again?’ Mendes said there were instances when the courts found no violation, but the bodies did.

* It is worth noting that in the TT case of *Roodal v The State* (TT) 2004 2WLR 652, there was a successful challenge to the constitutionality of the mandatory death penalty in TT, this was overturned in *Matthew v The State* (TT) 204 64WLR 412 – see savings clause re 1925 laws – in context of TT’s Independence Constitution (1962) and our Republican Constitution (1976). However, as the Death Penalty Project that worked on this case states, this litigation resulted in the commutation of the sentences of all prisoners (86 persons) under sentence of death in TT.

(See: UWI lecturer, John Knechtle’s report: “The mandatory nature of the death penalty has also been challenged, initially with some success. In *Roodal v State of Trinidad and Tobago*, the Privy Council held, 3-2, that the mandatory sentence of death for murder was unconstitutional. The Board explained that in requiring sentence of death to be passed on all defendants convicted of murder, without any consideration of the culpability and circumstances of the individual defendant, section 4 of the Offences against the Person Act violated the prohibition in section 5(2)(b) of the Constitution on the imposition of cruel and unusual treatment or punishment.

“However, the following year, the Privy Council reversed itself in *Matthew v State of Trinidad and Tobago*. The appellant was convicted of murder and sentenced to death under section 4 of the Offences against the Person Act 1925. He appealed on the ground that the mandatory death penalty was incompatible with his right to life under section 4 of the Constitution and his right under section 5 of the Constitution not to be subjected to cruel and unusual punishment, and that section 4 of the Offences against the Person Act should be interpreted as imposing a discretionary death sentence. The Board held, this time 5-4, that section 4 of the Offences against the Person Act was an “existing law” for the purposes of the savings clause in section 6(1) of the Constitution and was thus preserved from constitutional challenge; that, therefore, although it infringed the right to life under section 4 of the Constitution and was a cruel and unusual punishment under section 5, it could not be invalidated or rendered void under section 2 to the extent of any inconsistency with the Constitution; and that, accordingly, the mandatory death penalty imposed on the appellant was lawful and valid.”)

** A 2011 study carried out in Trinidad and Tobago by NYU Professor David Greenberg and Virginia Tech University Professor Biko Agozino found no correlation between executions, imprisonment and crime (over a span of 50 years – between 1950 to 1980). Inter alia, they said: “...murder rates only began to rise sharply from **2003**, when the consequences of drug trafficking and illegal possession of weapons also began taking its toll on the country.”

As we can see, the JCPC seems to be setting higher and higher human rights standards. It is important to note an issue raised by Parvais Jabbar of the London Death Penalty Project at the WCADP General Assembly. He referred to a series of JCPC judicial decisions that limit the application of the death penalty in our region—especially the rulings against any execution after a long delay and imposing greater transparency on clemency and pardon procedures, and the introduction of principles in sentencing. He pointed out that the judiciary could not outlaw capital punishment completely in most English speaking Caribbean countries so that progress through the courts had reached its limits because abolishing the death penalty was, at the end of the day, a political issue.

NB: “The murder rate in non-death penalty states has remained consistently lower than the rate in states with the death penalty, and the gap has grown since 1990.”

See the Death Penalty Information Center:

<http://www.deathpenaltyinfo.org/deterrence-states-without-death-penalty-have-had-consistently-lower-murder-rates>

* In the USA, **31 States have the death penalty**: Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Idaho, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, Wyoming. ALSO: US Govt and US Military

Judge Kozinski of the U.S. Court of Appeals for the 9th Cir.states: “[W]e have little more than an illusion of a death penalty in this country. ... Whatever purposes the death penalty is said to serve— deterrence, retribution, assuaging the pain suffered by victims’ families—these purposes are not served by the system as it now operates.”

In the USA **19 States and DC have abolished the death penalty**:

Alaska (1957) Connecticut (2012) Hawaii (1957) Illinois (2011) Iowa (1965) Maine (1887) Maryland (2013) Massachusetts (1984) Michigan (1846) Minnesota (1911) Nebraska** (2015) New Jersey (2007) New Mexico* (2009) New York (2007)# North Dakota (1973) Rhode Island (1984)^ Vermont (1964) West Virginia (1965) Wisconsin (1853) ALSO Dist. of Columbia (1981)

***NB: Since 1973, **156** persons have been exonerated in USA –

<http://www.deathpenaltyinfo.org/innocence-list-those-freed-death-row>

Last exoneration October 12, 2015 (#156). See DPIC's Innocence List: Defendants must have been convicted, sentenced to death and subsequently either-

- a. Been **acquitted** of all charges related to the crime that placed them on death row, or
- b. Had all charges related to the crime that placed them on death row **dismissed** by the prosecution, or

c. Been granted a complete **pardon** based on evidence of innocence.
<http://www.deathpenaltyinfo.org/innocence-list-those-freed-death-row>

In 2015, I travelled on a Speaking Tour with Juan Melendez. See below and also -
<http://www.witnesstoinnocence.org/exonerees/juan-melendez.html>

Juan Roberto Meléndez-Colón spent 17 years, eight months, and one day on Florida's death row for a crime he did not commit, before being exonerated in 2002.

The crime in Juan's case was particularly brutal. The victim was Delbert Baker, a white man, who was shot three times and his throat slashed, leaving the crime scene drenched in blood.

Juan, who could not afford an attorney, was convicted and sentenced to death within a week, even though there was no physical evidence against him. Had it not been for the fortuitous discovery of a transcript of the taped confession of the real killer 16 years after Juan was sentenced to death, he almost certainly would have been executed. Ultimately, it came to light that the prosecutor had systematically withheld exculpatory evidence. Since his release from death row, Juan has shared his story with tens of thousands of people in the United States, Canada, and Europe. His story is featured in the internationally-acclaimed documentary, Juan Meléndez 6446. Sister Helen Prejean calls Juan Melendez 6446 "heartbreaking, maddening, and stirring to the soul!" You can purchase a DVD of Juan Melendez 6446 for the low price of \$20 plus \$4.50 for shipping and handling directly from Witness to Innocence. All proceeds go directly to help the work of WTI. Call **267-519-4584** to order your copy today.

When asked why he is tireless in his efforts to educate the public on the death penalty, Juan responds, "I have no choice. I left a lot of good people behind in there and they're killing them. I owe it to them, and I will not stop until we have abolished the death penalty in every corner of this nation!" Juan lives in Albuquerque, New Mexico, with his partner, Judi Caruso, a board member of Witness to Innocence.

Juan said that when he finally met his mother after he was released from prison in the US and returned to Puerto Rico (he was born in Brooklyn, New York), she could not stop crying. She showed him her alter where she prayed for his release daily. However, although she prayed, she said she was saving money to bring his body home. "No mother should have to go through this," says Juan.

*In 2008, **Prof Michael Radelet**, Chair, Department of Sociology, University of Colorado- Boulder, and Traci Lacock, conducted a survey of experts from the American Society of Criminology, the Academy of Criminal Justice Sciences, and the Law and Society Association. The findings are published in an article in the Journal of Criminal Law and Criminology 99 (489-508) – entitled: “Do Executions Lower Homicide Rates? The Views of Leading Criminologists.”

Radelet and Lacock state in the above article: “Our survey indicates that the vast majority of the world’s top criminologists believe that the empirical research has revealed the deterrence hypothesis for a myth...the consensus among criminologists is that the death penalty does not add any significant deterrent effect above that of long-term imprisonment.”

90% of the criminologists polled said that the death penalty had little effect overall on the committing of murder.

Over 75% of those polled do not believe that increasing the number of executions, or decreasing the time spent on death row before execution, would produce a general deterrent effect.

91% said that politicians support the death penalty as a symbolic way to show they are tough on crime.

75% said that it distracts legislatures from focusing on real solutions to crime.

91.6% said that increasing the frequency of executions would not add a deterrent effect.

*More and more today, our Church is telling leaders that they must find non-lethal ways of dealing with crime and violence. Some time ago I spent 2 hours on a radio programme with 2 Pastors who believe in the Old Testament (Exodus 21:24) saying: “An eye for an eye, a tooth for a tooth.” And Genesis 9:6 – in fact, capital punishment was the punishment for a number of crimes.

“The penalty for most crimes was death, beating or banishment from the tribe. The Old Testament Law prescribed the death penalty for an extensive list of crimes including:

- Murder (Exodus 21:12-14; Leviticus 24:17,21)
- Attacking or cursing a parent (Exodus 21:15,17)
- Disobedience to parents (Deuteronomy 21:18-21)
- Kidnapping (Exodus 21:16)
- Failure to confine a dangerous animal, resulting in death (Exodus 21:28-29)
- Witchcraft and sorcery (Exodus 22:18, Leviticus 20:27, Deuteronomy 13:5, 1 Samuel 28:9)
- Human sacrifice (Leviticus 20:2-5)
- Sex with an animal (Exodus 22:19, Leviticus 20:16)
- Doing work on the Sabbath (Exodus 31:14, 35:2, Numbers 15:32-36)
- Incest (Leviticus 18:6-18, 20:11-12,14,17,19-21)
- Adultery (Leviticus 20:10; Deuteronomy 22:22)
- Homosexual acts (Leviticus 20:13)
- Prostitution by a priest's daughter (Leviticus 21:9)
- Blasphemy (Leviticus 24:14,16, 23)
- False prophecy (Deuteronomy 18:20)
- Perjury in capital cases (Deuteronomy 19:16-19)
- Refusing to obey a decision of a judge or priest (Deuteronomy 17:12)
- False claim of a woman's virginity at time of marriage (Deuteronomy 22:13-21)
- Sex between a woman pledged to be married and a man other than her betrothed (Deuteronomy 22:23-24)

“The New Testament does not have any specific teachings about capital punishment. However, the Old Testament ideas of punishment became secondary to Jesus’ message of love and redemption. Both reward and punishment are seen as properly taking place in eternity, rather than in this life. Jesus flatly rejected the Old Testament principle of taking equal revenge for a wrong done (Matthew 5:38-41, Luke 9:52-56). He also said that we are all sinners and do not have the right to pass judgment on one another (Matthew 7:1-5). In the case of a woman caught in adultery (a capital offense), Jesus said to those who wanted to stone her to death,

"Let anyone among you who is without sin be the first to throw a stone at her." And once again he bent down and wrote on the ground. When they heard it,

they went away, one by one, beginning with the elders; and Jesus was left alone with the woman standing before him. Jesus straightened up and said to her, "Woman, where are they? Has no one condemned you?" She said, "No one, sir." And Jesus said, "Neither do I condemn you. Go your way, and from now on do not sin again."(NRSV, John 8:7-11)

The apostle Paul also warned against taking revenge for a wrong done (Romans 12:17-21, 1 Thessalonians 5:15). Likewise, the apostle Peter warned us not to repay evil with evil (1 Peter 3:9).”
http://www.christianbiblereference.org/faq_CapitalPunishment.htm

*I could not convince the Pastors that the Old Testament views on capital punishment should be replaced with Jesus’ actions/teachings. He came to renew the face of the earth, and we should listen and act on His words in the New Testament. Remember Jesus' words in Matthew 5:38-39: "You have heard that it was said, an eye for an eye and a tooth for a tooth. But I tell you this: do not oppose evil with evil..."

In Romans 12:17 we read: “Never repay evil with evil...” And in Romans 12:21 we read: “Resist evil and conquer it with good.” In all my work, the litmus test that I use is to ask: “What would Jesus do?” Jesus is merciful and would not bay for blood.

St Thomas Aquinas defined the virtue of “mercy” as “the compassion in our hearts for another person’s misery, a compassion which drives us to do what we can to help him” (Summa Theologiae). If we recognise that Jesus is all that our “hungering” spirits need, then we must learn to be merciful as our Father in heaven is merciful (Luke 6:36).

According to the Catholic encyclopaedia, “Being merciful is a virtue that influences one’s will to have compassion for, and if possible, to alleviate another’s misfortune... its motive is the misery which one discerns in another either as bodily suffering or a spiritual need.”

And where does the Church stand with regard to the death penalty? The 1997 revised edition of our Catechism states:

“Assuming that the guilty party's identity and responsibility have been fully determined, the traditional teaching of the Church does not exclude recourse to the death penalty, if this is the only possible way of effectively defending human lives against the unjust aggressor.

If, however, non-lethal means are sufficient to defend and protect people's safety from the aggressor, authority will limit itself to such means, as these are more in keeping with the concrete conditions of the common good and more in conformity to the dignity of the human person.

Today, in fact, as a consequence of the possibilities which the state has for effectively preventing crime, by rendering one who has committed an offense incapable of doing harm - without definitely taking away from him the possibility of redeeming himself - the cases in which the execution of the offender is an absolute necessity "are very rare, if not practically nonexistent. (John Paul II, *Evangelium vitae – The Gospel of Life* 56. 69 Cf. *Gen* 4:10)” 2267.

*Pope Francis constantly speaks out against the death penalty which he says is "inadmissible, no matter how serious the crime committed. It is an offence against the inviolability of life and the dignity of the human person, which contradicts God's plan for man and society, and his merciful justice, and impedes the penalty from fulfilling any just objective. It does not render justice to the victims, but rather fosters vengeance.... There is discussion in some quarters about the method of killing, as if it were possible to find ways of 'getting it right'. ... But there is no humane way of killing another person.” <http://www.catholicnewsagency.com/news/pope-francis-no-matter-what-the-crime-the-death-penalty-is-inadmissible-89127/> (March 2015)

He is correct in saying that the use of capital punishment signifies “a failure” on the part of any State. The Church through its teachings and missionary work expresses its concerns and acts to support the **victims** of crime. However, it is clear that the Holy Father is leading the way in promoting non-lethal means to defend and protect society from aggressors. The death penalty forms part of what Pope Francis calls our “throwaway culture”.

And let us reflect on the words of St Pope John Paul II (Papal Mass, *St. Louis, Missouri*, 27 Jan 1999): “The new evangelisation calls for followers of Christ who are unconditionally pro-life: who will proclaim, celebrate and serve the Gospel of life in every situation. A sign of hope is the increasing recognition that the dignity of human life must never be taken away, even in the case of someone who has done great evil. . . I renew the appeal I made . . . for a consensus to end the death penalty, which is both cruel and unnecessary.”

And where does our beloved Archbishop Harris stand on this issue? In an interview with Rhonda Krystal Rambally, Guardian newspaper – published 28 Dec 2015, His Grace said:

“I always tell people that I am totally against the death penalty. I tell people all the time that violence breeds violence,” he said...He said it would always be wrong and nobody has shown him that hanging was a deterrent. “I really don’t think we should be associated with such barbarity.” He said this had always been a point of contention between him and governments. “I have always said no to hanging.”

Harris said he believed the country was already down a slippery slope and called on the Government to reverse it. He said there was plenty to be done and believed the country had the capacity to do it. “The onus is on everyone.”

On 1 Oct 2013, at the international conference entitled: “*The Death Penalty in the context of Public Security: Neither right nor Effective*” - held at the Law Faculty Auditorium, UWI, St Augustine Campus, TT on Tues 1 Oct 2013: 9 a.m. to 6 p.m. and organized by a number of organizations, including CCSJ and GCL, His Grace sent a message to those gathered since he had another commitment and could not attend. Inter alia, he said:

“Dear friends and participants at this International Conference, I would have liked to be here with you to add my “two cents” to the public debate on the death Penalty, unfortunately matters of the clergy have me occupied and I am unable to attend.

I would like to say however, from the very outset, that I stand with Francis, bishop of Rome, on this issue. I think it fair to say that most persons, deep inside, want a

calmer, gentler society. Faced with rising violence, crime and murder, we seek ways to bring this about. Some clamour for ways which can turn around the wave of hopelessness which appears to be taking over so many of our young people. Others cry for churches and religious organizations to do more, but religion must never be used as the opium of people. Others try to bring about this calmer gentler society through the instilling of fear, but fear is no antidote for a person with no hope.

How then do we as societies deal with the scourge of violence and murder which seems to be engulfing us here in the Caribbean? As a churchman and a person of faith, I cannot endorse the violence perpetrated on individuals in the name of justice. Pope Francis teaches us very clearly that Faith and violence are incompatible.

Since the Vatican II Council, flowing from a more profound and inclusive understanding of the dignity of human life, the Church has become very much clearer in its teaching on the death penalty. In fact recent popes have all called for its abolition.

In the message sent to the participants of the Fifth World Congress Against the Death Penalty held in Madrid, Cardinal Bertone wrote on behalf of Pope Francis, “Today, more than ever, it is urgent that we remember and affirm the need for universal recognition and respect for the inalienable dignity of human life, in its immeasurable value.”

The inalienable dignity of human life extends to **all** human life, even the life of those who have no respect for life. In his 1995 encyclical *Evangelium Vitae* (*The Gospel of Life*), Blessed John Paul II stated, “the nature and extent of the punishment must be carefully evaluated and decided upon and ought not go to the extreme of executing the offender, except in cases of absolute necessity: in other words, when it would not be possible otherwise to defend society. Today, however, as a result of steady improvements in the organization of the penal system, such cases are very rare, if not practically non-existent.”

The problem for us here in Trinidad and Tobago, of course, is that the death penalty has become a political issue. It is no longer looked at from a moral or

ethical standpoint. It is a question of getting votes and few if any are looking at countries who have the death penalty to determine if, in fact, it is the deterrent that it is touted to be. It appears to me that to a large extent, the call to “pop” their necks only panders to the individual and societal desire for vengeance which only breeds more violence. Not only does it breed more violence, the desire for vengeance separates the society into “us and them”. We refuse to see the convicted and condemned person as an individual capable of being redeemed, that is, unless the condemned person is a relative of ours. Then we try to move heaven and earth to stop their execution.

Until and unless society does serious research into the causes of violence and murder and, based on its findings, takes the necessary steps to deal effectively with these causes, no amount of executions will stop the violence and the murders. Let us never forget that God is the giver of all life and ultimately only God has jurisdiction over life. We must concentrate on building the society of love, a calmer and gentler society in which we all sincerely try to do the best that we can for each other. “Popping” necks is not doing the best that we can for the other.

At that Conference, Sir Clare Roberts, former AG and Minister of Justice and Legal Affairs for Antigua and Barbuda, and a former member of the Inter-American Commission on Human Rights, rightly stated that “when there was a breakdown in public security, politicians liked to use the call ‘bring back the death penalty’. But this is just a quick and cheap fix. It costs virtually nothing to enact legislation to reimpose the death penalty and it has the advantage of appearing to take a form of action...The whole costly process is left out. It costs money to furnish the police force with trained detectives, forensic labs, with up-to-date equipment. It costs to attack the root causes of crime. The increase of poverty and indigence in the Caribbean has raised levels of inequality, social exclusion and violence in crime. The Caribbean islands today have some of the highest rates of crime in the world. The man in the street is concerned about his safety and that of his family and he therefore finds it easy to buy into the quick fix of bringing back the death penalty.

Regionally, the Bishops of the **Antilles Episcopal Conference** have issued 2 important documents that address the issue of the death penalty: **1. Pastoral Letter**

on Capital Punishment (Jubilee Year 2000) and 2. Pastoral Letter: The Gift of Life (2008).

In their 2000 Pastoral letter on capital punishment they said: "The prophetic voice of the Church must be heard especially in times of moral and social crisis...regardless of the potential unpopularity of our Gospel message...Capital punishment symbolises a form of despair for the effective reform of persons."

And in their 2008 Pastoral Letter they said: "Very often those who support capital punishment invoke the test, "an eye for an eye and a tooth for a tooth" (the "lex talionis" – Lev.24:20). This was, of course a most important development in the Old Testament's understanding of justice. Justice must not seek revenge. The punishment due from injustice must be rational and not excessive. However, the "lex talionis" was not the last word on this matter. In fact, Jesus gave us the last word: "you have heard that it was said, an eye for an eye and a tooth for a tooth. But I say to you: do not oppose evil with evil... (Mt. 5:38-39)."

The AEC Bishops expressed their "firm desire that the leaders and people of Caribbean society move toward the total abolition of the Death Penalty. Therefore, we should place emphasis on the rehabilitation of the offender rather than on his/her elimination. Non-lethal forms of punishment are more in keeping with the concrete conditions of the common good and more in conformity with the dignity of the human person." (See *Evangelium Vitae*, 99 and the 1997 version of our Catholic Catechism, 2267).

The AEC Bishops rightly state that the death penalty does not address the root causes of crime. As the US bishops have said: "The death penalty offers the tragic illusion that we can defend life by taking life."

While the death penalty remains on our law books, our task as Catholics is to strive to have capital punishment abolished and to find other ways of responding to/reducing crime. Let us not buy into the "culture of death" that is so pervasive and that threatens to overwhelm us. Both victims and offenders are children of God, made in His image and likeness, with inherent and inviolable dignity. Let us protect the sanctity of all life and embrace restorative justice —not retributive justice.

In his World Day of Peace Message 2016 - entitled: *Overcome indifference and win Peace*, Pope Francis reminds us that “Mercy is the heart of God.” In his Papal Bull for the Year of Mercy, *Misericordiae Vultus – The Face of Mercy*, 21, he says: “Mercy expresses God’s way of reaching out to the sinner, offering him a new chance to look at himself, convert, and believe thus restoring his relationship with him. In Jesus crucified, God shows his desire to draw near to sinners, however far they may have strayed from him.”

There are many who have strayed far from God, and as disciples, we are called to reach out to them by practicing the corporal and spiritual works of mercy. We will be judged by how we treated the least of our brothers and sisters.

In John 3:16 we come to understand the extent of God’s mercy: “God loved the world so much that he gave his only Son so that everyone who believes in him may not be lost but may have eternal life.” We are all here because of God's grace; because He sent His only son, Jesus, to redeem us from sin. As Pope Francis said: “The Lord has redeemed all of us, all of us, with the Blood of Christ, all of us, not just Catholics. Everyone!” Christ's death and resurrection show how much mercy God has for us. "*He saved us, not because of righteous things we had done, but because of his mercy*" (Titus 3:5).

In his 2016 Lenten message entitled: *I desire mercy and not sacrifice (Matthew 9:13) The works of mercy on the road of the Jubilee*, Pope Francis reminds us of his words contained in his Papal Bull: *Misericordia Vultus*, 17 (The Face of Mercy) in which he asked that “the season of Lent in this Jubilee year be lived more intensely as a privileged moment to celebrate and experience God’s mercy.” In doing so, let us not forget that we should be merciful to ourselves. Pope Francis reminds us in the Papal Bull that “Mercy is the very foundation of the Church’s life.” (No.10).

Pope Francis asks us to do in his Lenten Message - reflect and act on the corporal and spiritual works of mercy. In it he quotes from his Papal Bull for the Year of Mercy, *Misericordiae Vultus*, 21: “Mercy expresses God’s way of reaching out to the sinner, offering him a new chance to look at himself, convert, and believe thus

restoring his relationship with him. In Jesus crucified, God shows his desire to draw near to sinners, however far they may have strayed from him.”

There are many who have strayed far from God, and as disciples, we are called to reach out to them. Let it not be said, though, that Catholics are not concerned about the welfare of victims of crime. I agree with **Archbishop Pinder**, Nassau, who said: "It is important to note that while we oppose the death penalty, we embrace the victims of violent crimes; those who are hurting and grieving for their loved ones who have been killed, at times in the most heinous ways. We urge each parish to establish victim support groups and seek to meet their physical, mental, spiritual, financial and other needs."

And since we are all made in the image and likeness of God, let's stand in solidarity also with offenders and their families and address the complex causes of crime.

Federico Mayor, President of the International Commission against the Death Penalty, rightly said that: “The death penalty has to be eradicated in all circumstances because it violates universally recognized human rights, in particular, the right to life, which is the most fundamental right of all.”

In a book that was recently launched, entitled: *Moving Away from the Death Penalty: Arguments, Trends and Perspectives*, Federico Mayor, rightly states in his chapter in this book: *Leadership and the abolition of the death penalty*: “Rejecting capital punishment is about choosing what kind of society we want to live in, and which values—including human rights and dignity, democracy and the rule of law—we want to uphold....Principled political leadership, within the domestic realm and internationally, is an essential factor in the momentum that is driving the movement for the abolition of the death penalty.”

* More and more organisations, including the UN, The Office of the High Commissioner for Human Rights, Amnesty International, and the Greater Caribbean for Life, advocate for the universal abolition of the death penalty for a number of reasons, including:

- the fundamental nature of the right to life – the death penalty is incompatible with human rights and human dignity;
- the unacceptable risk of executing innocent people;

- the often arbitrary application of the death penalty, and
- the absence of proof that the death penalty serves as a deterrent to crime.

We need courageous, visionary leaders in our region who will develop their understanding of the nature of the problems we face in the region and who will be prepared to lift their heads above the parapet and speak out/act for what is right and just.

Rather than baying for blood, let's all work with our respective governments to:

- strengthen family life;
- fix our broken institutions - including the re-engineering of the criminal justice system;
- devise and implement more effective victim support initiatives; - invest in education, youth development and job creation;
- reduce poverty and socio-economic inequality;
- protect children from risk-factors related to crime;
- work to restore respect for law, life and human rights by e.g. promoting a renewed ethic of justice, responsibility and community.

Let us go forth from this Seminar, strengthening our resolve to stop crime not lives.

I end with part of Sr Helen Prejean's (author of *Dead Man Walking*) prayer to abolish the death penalty:

"Holy Spirit of God,
 You strengthen us in the struggle for justice.
 Help us to work tirelessly
 for the abolition of state-sanctioned death
 and to renew our society in its very heart
 so that violence will be no more. Amen"

Appendix 1: Murder Rates in TT

1994 to Present, Crime Statistics <http://www.ttcrime.com/stats.php>

Year:	Murders:	Kidnap**:	Notes:
1994	143		
1995	122		
1996	106		
1997	101		
1998	98		
1999	93		15 were female
2000	118		24 were female
2001	151		
2002	171	29	
2003	229	51	
2004	260	28	
2005	386	58	117 murders were in the POS District with 70 in the Western District
2006	368	17	
2007	395	155	
2008	550	11	Big increase in the number of murders. A significant drop in kidnappings for ransom
2009	509	6	

2010	485	4	The month of June had the highest number of murders for the year: 55
2011	354*	2	January and July had the highest number of murders at 46 in each month
2012	383	5	According to the police the murder total for 2012 may be lower (to be verified)
2013	408	3	Woundings and shootings 542 ;
2014	403	2	Woundings and shootings 558 . Sexual offenses: 829
2015	410	3	
2016	79	0	As at Sun 28 Feb 2016