

Maryland considers death penalty repeal

Alice Popovici | Feb. 27, 2009



Maryland Gov. Martin O'Malley

FREDERICK, Md. -- Chris Wilson's father, 83, was murdered in 1994 by an acquaintance who broke into his home, likely to steal money. A week later, the man claimed another victim.

"At the time of the murder, I felt like I could've killed the perpetrator myself," Wilson said. But even as he and his wife, Mary, saw their family divide on the issue of capital punishment, they considered the grief and pain it would inflict on the murderer's parents.

"There's a slippery slope between justice and revenge -- vengeance," Mary Wilson said. It wouldn't have brought Chris' father back. "In the end, it really deepened our faith," she added. "We realized that the death penalty would have never freed us."

[Breaking News: O'Malley's death penalty efforts fail in state senate](#) [1]

Sharing their story recently at Hood College here after a panel discussion on the effort to repeal the death penalty in Maryland, the Frederick couple, who are Catholic, said they've never spoken publicly about the murder for fear their lives would fall under scrutiny -- but the legislation now at stake is too important. They have agreed to testify before the Maryland General Assembly in favor of a bill to repeal the death penalty.

Democratic Gov. Martin O'Malley, who is promoting the legislation, has called the death penalty costly and ineffective and asked lawmakers to give it a "fair up-or-down vote." It's the third effort to repeal the law, after two similar bills failed in the Senate committee in the last two years.

This year's bill cites the findings of the Maryland Commission on Capital Punishment, created last year to study aspects of the law. The commission, chaired by former United States Attorney General Benjamin Civiletti, found that the death penalty is racially and jurisdictionally biased, costly, and carries the risk of executing an innocent person.

Speaking several weeks ago at the "Voices for Change: Death Penalty Repeal" discussion at Hood College, supporters of the legislation outlined the findings of the December report and urged audience members to lobby for passage of the bill.

"[Commissioners] voted 13-9 that the administration of capital punishment in the state of Maryland is arbitrary, capricious and unfair," said Matthew Campbell, a commission member and former deputy state's attorney for Montgomery and Howard counties. "There is a real possibility, in Maryland, of convicting and prosecuting innocent people."

Commission member Kirk Bloodsworth, a former state prisoner whose capital conviction was overturned when he was exonerated by DNA evidence, is a living example of the criminal justice system's fallibility, Campbell said.

According to the findings, the system is more likely to impose a death sentence on a black person than a white person, and on Baltimore County residents rather than those living in Montgomery County. In addition to the high cost of an execution -- \$3.5 million compared to \$1.1 million for a life sentence -- Campbell said the commission found "no persuasive evidence" the death penalty is a deterrent to crime.

Panelist Jane Henderson, executive director of Maryland Citizens Against State Executions, stressed the urgency of the debate and the need for action.

"What is going to make this happen this year, in this legislative session, is going to be what you all do," she said. "Marylanders are ready, but legislators are more conservative animals, and they need a push."

But will this be enough in a state that, according to recent polls, supports the death penalty by a narrow majority? A *Baltimore Sun* poll conducted in 2008 found that 57 percent of Maryland residents support the death penalty, and a Gonzales Research & Marketing Strategies poll released in January shows support at 53 percent. Given an alternative to the death penalty, however, 65 percent of Marylanders say that a life sentence without the possibility of parole is acceptable, said the Gonzales poll.

"If there were evidence that the death penalty actually saved lives and deterred violent crime, I'm quite sure that I would be in favor of the death penalty," O'Malley told *NCR*. But the law is "both expensive and utterly ineffective" and "there is always the possibility, in this human process, that an innocent person will be put to death," he said.

The first-term governor said the resources currently being diverted to this punishment would be better used to keep violent offenders behind bars for life. The programs that will save lives are technology upgrades that help police lock up repeat offenders and earlier intervention with juveniles, he said.

O'Malley, who attended Washington's Gonzaga College High School and The Catholic University of America before earning a degree at the University of Maryland School of Law, said the core beliefs of his Catholic faith, "in the dignity of every individual" and "responsibility to advance the common good," inform every aspect of his public service. But he stopped short of saying they directly affected his position on the death penalty.

"You also look at what kind of country we want to be able to leave to our kids," he said. "Do you want us numbered with China and North Korea and Iran, as states that embrace public execution, or do you think there's a more noble company for the United States to join?"

Five people have been executed by lethal injection in Maryland since the death penalty was reinstated in 1978 and five are currently on death row. The last inmate was executed in 2005.

Nationally, the movement to abolish capital punishment appears to be gaining momentum. In December 2007, New Jersey became the first state in the country to abolish the death penalty, and efforts to move repeal legislation are underway in New Mexico and Montana. Bills seeking to repeal the death penalty have been introduced in Nebraska, Colorado, New Hampshire, Washington and Kansas.

A Gallup poll conducted in 2008 shows 64 percent of Americans support the death penalty, a number that marks a slight decline over the last couple of years, but has risen as high as 80 percent (in 1994) and dropped to 42 percent (in 1966).

Among Catholics, support for the death penalty has fallen to 48 percent, from more than 70 percent in the late 1990s, according to a Zogby International poll cited by the U.S. Conference of Catholic Bishops. The conference has been working to end the death penalty for nearly 30 years, and started the Catholic Campaign to End the Death Penalty in 2005.

Kathy Saile, director of domestic social development for the bishops' conference, said Catholics see capital punishment as an "ethics of life issue." Considering that more than 100 death row inmates have been exonerated in the last several decades, there is also the question of fairness within a human system prone to error, she said.

But there are other considerations.

"Even if we knew for a fact everyone on death row was guilty, we still wouldn't support it, because it's the taking of life," she said. "Human life is sacred."

Others say capital punishment is sometimes the only means to protect the innocent.

"There are just some criminals out there who are so bad that they cannot live in any society, including jail," said Baltimore County State's Attorney Scott Shellenberger, a member of the capital punishment commission who dissented from the majority's findings.

"The jurisdictional disparity is really a misnomer," he said. "It's not against the law for different jurisdictions to seek different penalties," but simply a function of local officials following the will of the people. As for racial disparities, he said the Maryland Commission on Capital Punishment found no proof of purposeful discrimination, and that the findings are also a function of jurisdictional differences.

The cost calculation was "ludicrous," he said, with the commission arriving at the total amount by calculating the salaries of the judge, bailiff and other trial participants, in relation to the length of the trial. "The way they did the cost analysis has no logic or basis."

People on opposing sides of a debate are likely to arrange facts to fit their own position, said Rick Prothero, another commission member who supports the death penalty. He said much of the testimony heard during the months-long study came from anti-death penalty groups, and not one of the commissioners changed their initial vote.

The death penalty is "just punishment for a totally unjust act," said Prothero, a physical therapist whose brother, a Baltimore County police officer, was killed in 2000 during a robbery at the jewelry store where he worked as a security guard. "There is a possibility, as always," he said, of executing an innocent person, "but it's not a very big number and it has never been proven."

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