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Defining the Church's Advocacy Role to the Modern Prison System

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DEFINING THE CHURCH’S ADVOCACY ROLE
TO THE MODERN PRISON SYSTEM

A Dissertation
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Timothy J. Swope
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INTRODUCTION

As the Church has emerged into the modern world, it has been faced by a vast array of human problems. To her credit this age old institution has acknowledged many of the challenges of present day humanity. Beginning with his foundational encyclical on modern social problems, *Rerum Novarum*, Pope Leo XIII set the Church on an irrevocable course of applying the teaching of her Master to the concerns of this present world in which we live.

As a result, as the twentieth century closes, there is an extensive reservoir of documents. Through these documents the Church tries to offer to the world her wisdom and to provide direction in this confusing yet hopeful age of a global humanity. Over this past 100 years the Church has professed herself to be called by Christ to serve as his voice in championing the dignity of his sisters and brothers. This is especially so in regard to the poor and marginal of this world. The position of the Church, as expressed in the teaching of the bishops, and the present Pontiff, is clear. Jesus asks the Church to be with the people who have a special closeness to his compassionate love, a mission expressed as the preferential option for the poor.

The development of the Church’s social teaching is ongoing, reacting, as it must, to the many areas of human concern. This teaching has given rise to theologies of liberation, responsibility and hope. It has called the members of the Church to enter into the needs of the poor and powerless; and has sought to address all divisions of the modern world. It is in this vein that I would state my thesis that the Catholic Church is called by Christ and by her modern social tradition to speak to the present prison system. The
Church is to be an advocate not only of the prison system but of humane treatment to the prisoners and to the prison staff.

The purpose and effectiveness of prisons are becoming more and more matters of social concern in American life. The growth of prisons in the United States of America is appalling. Their growth is, for many, a clear indicator of our failure to address our present social problems. The prison population are entering prisons at a younger age. Young people are doing prison sentences that are of longer duration than sentences have typically been in the past. Though they are spending more time in the prison system, an overwhelming percentage of these inmates will, nevertheless, eventually be released back into our cities, towns, and neighborhoods. Despite the longer time spent within the prison system, these ex-offenders, for the most part, have not been rehabilitated. Nor, in many instances, has there been any attempt made to rehabilitate them. In addition, the American citizenry has pressured State legislatures to pass laws that have harsher penal sanctions, that dismantle the parole boards in many States and in the federal government, and that take away from judges discretionary sentencing authority and supplant it with mandatory sentencing guidelines. This hardening of the American attitude to criminals has also put prisons under pressure not to appear soft or easy on prisoners. Sports and recreational programs offered in the prisons have often been criticized despite their value in controlling the prison population. Educational opportunities and rehabilitation programs are many times in danger of being curtailed as not having a high priority with the public.
With the above situation in mind it seems important to examine what the Church, in light of her social teaching, as an institution and a community of individuals is called to do. Is she to be an advocate of the system, its workers and its population? Is this, perhaps, an area in which the Church has no expertise and so would be wise to direct her attention and efforts elsewhere? Is she simply to be a passive observer of this country’s criminal justice system? It is the thesis of this dissertation that the Church has a clear responsibility to be an advocate to the prison system, its workers, and its population. She is called to be an advocate to prison workers and to the prisoners themselves because of the very real and unique human needs and threats to human dignity which arise in working or living in a most difficult situation. However, advocacy must also be extended to the prison system which arose in our society as an attempt to correct and to care for the offender. To allow just negative destructive criticism of the prison system without any practical replacement is to destroy something which prevents us from going back to a darker age of punishment. Advocacy for the prison system allows us to bring to bear a concern for just punishment, protection of society, hope of rehabilitation and care for those whose lives have been damaged by the criminal act of the offender.

The demonstration of my thesis, that the Church has an advocacy role in regard to the prison system, will begin in chapter one with a review of the Church’s social teaching. This review will look specifically to see the advocacy role of the Church in the past one hundred years. Is that advocacy role present? Under what form? And how might it relate to the question of the prison system, its staff and its populations as such? Are not the prisoners in the penal system on the margin and powerless?
In reviewing key social teachings of the Church in the past century we can get a picture of where the Church positions herself and for whom. Is she an advocate in the questions of economics, politics, and culture? Is this relevant to those incarcerated, their custodians, and the conditions they live and work under? At the end of this first chapter of the dissertation we will see if there is an advocacy role by the Church and, if it is present, what the implications of this role are for the prison system.

In the second chapter I will attend specifically to what the Church has to say in regard to the prisons of the modern day. Origins, the CNS documentary service, will be the central source for this review. Have the American bishops taken a position in regard to prisons in this country? If so, how is the prison system as such perceived by the bishops? What is their perception of the inmate population and the correctional staff?

This chapter will review the American bishops’ reaction to the decision by many states to re-enact the death penalty. Questions of rehabilitation and justice, as well as, education of the public on the purpose of corrections will be some of the topics covered in this chapter. This chapter will conclude with a summary of how the Church sees her role of advocacy and how it flows with the mainstream of Catholic social thought.

In the third chapter of the dissertation the roles of the Church and the government will be examined by looking at the history of Church and State relations. Throughout this history did the Church consider the State to be an enemy or a friend? Was it to be considered a source of support; was it to receive allegiance equal to the loyalty due the Church; or did a more neutral relationship exist with each one ignoring the other. In Catholic theology is the State evil or is it a good necessary for human well being? Is it in
anyway involved with the more transcendent aspects (i.e. spiritual life) of its citizens?

An historical review of Church teaching on the Church-State relationship will be an important aspect of this chapter. The analysis of Hugo Rahner in his work on Church and State will be the beginning point in regard to Church statements and positions. Also, the work of John Courtney Murray, as reflected in his articles in *Theological Studies*, will be used in regard to Church-State relations from the middle ages to the present. This will constitute the middle portion of the chapter. The final part of chapter three will use Philip Hamburger’s, *Separation of Church and State*. This work will allow us to view the dialogue of Church-State relations from a specific American point of view. The summary will conclude this historical sketch with what values are central when dealing with a public institution and a religious institution. The values of freedom and justice are those central values which have a commonality to both public and religious interest and which will able breach the wall of separation between Church and State. Also, freedom and justice go to the heart of the criminal justice process and the correctional system.

Chapter four will specifically deal with values of freedom and justice as applied to the individual prisoner in the correctional system. These values will be focused by three central Christian mysteries used in the rehabilitation process of the inmate. These mysteries are creation, sin and redemption. This chapter will use a number of resources


to unfold this process of rehabilitation. Josef Pieper’s work, *The Four Cardinal Virtues*, was chosen as a good representative of Catholic theology on justice. His work, *The Concept of Sin*, was chosen also as a representative work in the Catholic traditional understanding of sin. The understanding of the criminal person by Samuel Yockleson and Stanton Samenow was chosen because of their accurate observation of the criminal's activity and thought process, as well as their challenge to the criminal to bring his/her life into accord with the prescriptions of justice and a life of responsibility. The work of Roger Haight, “Sin and Grace,” *Systematic Theology II*, gives a concise outline of the different effects of grace and allows a clear correlation between grace and rehabilitation to be seen. Finally, the use of the *Catechism of the Catholic Church* is referenced to anchor areas of Catholic doctrine in the work of advocacy. These are the major resources of the his chapter. However, other works are cited, but tend to be ancillary. As stated above chapter four, is concerned primarily with the rehabilitation of the inmate and his/her responding to the demands of justice.

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7*Catechism of the Catholic Church* (New Hope, KY: Urbi et Orbi Communications, 1994).
Chapter five deals in with the problems of the victims, families of the incarcerated and the workers within the institution using the central values of freedom and justice (with the view of justice moving toward the experience of healing from the unjust acts of the criminal). The mysteries of creation, sin and redemption are also used in helping the victims and those affected by crime to deal with its damaging effect in their lives. The same process is used in regard to the system itself. The central values of freedom and justice interfacing with the mysteries of creation, sin and redemption give a certain direction for the Church in its advocacy role to the system as such. The book, How Al-Anon Works, is introduced within this chapter because of the similarities between victims of addicts to those victims of crime. Chapter five concludes with a revisiting of Church statements which impinge on the values of justice and freedom, as well as her statements on the mysteries of creation, sin and redemption in dealing with social concerns of humanity. This will bring to full circle the understanding that the Church clearly has an advocacy role to the prison system. The central values of freedom and justice and the central mysteries of creation, sin and redemption offer a clear path to the Church in its advocacy role to the prison system.

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How Al-Anon Works (Virginia Beach, VA: Al-Anon Family Group Headquarters, Inc. 1995).
CHAPTER ONE
ADVOCACY AND MODERN CATHOLIC SOCIAL THOUGHT

The aim of this dissertation is to define the advocacy role the Church should play in regard to the modern prison system. By the modern prison system I not only mean the full governmental agency or bureau of prisons as such, but also the institutions, staff and inmate population. This first chapter will examine whether the Church has an advocacy role in the modern world as such, and to whom is it directed. This chapter will also examine the possibility that the prison system be part of an advocacy role if one should exist.

Thus, the main part of this chapter will be a review of the Church’s social teaching. This will include the social encyclicals of the papacy in the modern age, the document, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World* of the Second Vatican Council, as well as, the document, *Justice in the World*, given by the synod of Bishops in 1971. Many of these documents are contained in a book edited by David J. O’Brien and Thomas A. Shannon, entitled *Catholic Social Thought: The Documentary Heritage*¹. I will examine each one of these documents to see if they show an advocacy role and for whom and why it was put forth. If these documents do show such a role then we are able to conclude that the Church is indeed called by her tradition to be an advocate and to understand for whom she is to be an advocate.

Before beginning the review of the modern social teaching of the Church, the meaning of the word “advocate” needs to be addressed. The Anchor Bible Dictionary\(^2\) gives many nuances to the word (in Gk - parakletos). The first instance of advocate is used in a passive sense, ‘one who is called alongside [to someone’s aid], and is thus rendered in the Latin as ‘advocatus”. Herbert G. Grether, author of the article “Advocate” in the Anchor Bible Dictionary, sees that the modern use of the word as intercessor, helper, mediator, one who appears on behalf of another, is basically the meaning of advocate in the New Testament. In I John 2:1 Jesus is referred to as an advocate on our behalf. He is the one who pleads our cause, who speaks in our defense, “But if anyone should sin, we have, in the presence of the Father, Jesus Christ, an intercessor (parakletos) who is just” (I John 2:1).\(^3\)

In the Gospel of John the term, advocate (parakletos), is used in regard to the Holy Spirit (John 14:16, 26; 15:26; 16:7). The use of the term advocate in these instances is translated in various ways, as comforter, counselor, defender, helper. The Johannine use of the word advocate, as Grether indicates, is similar to how we use it in the modern world.\(^4\) For our modern usage I have chosen Webster’s Dictionary, which defines advocate as one who pleads the cause of another and defends another or a cause.\(^5\)


\(^3\)Ibid.

\(^4\)Ibid.

Advocacy then is the profession or work of an advocate, and the advocate can work or stand for a person, a group of persons, or a cause in which these persons are aided. Therefore at the root of the term advocate is the counseling, defending, helping, comforting another person. It can extend itself to include these people as a group or a class. Advocacy can evolve into defending, representing and standing for causes, philosophies, and values which impact persons and structures of societies and cultures for the good and to stand against those which hinder these persons or groups of persons.

Thus, the understanding of advocate involves three parties: the party in need, the party who can give relief, and the advocate who appears on behalf of the one in need before the one who can give relief. Advocacy can be direct, that is helping a needy person(s), class or specific group find relief. It can also be indirect. This is when an advocate appears before a party (usually an authority as the State) to change the circumstances or laws in order that the needy one may find help.

Finally, in ‘Defining the Church’s Advocacy Role to the Modern Prison System’ we begin this dissertation with reviewing advocacy as found in the Scriptures. The Torah of Israel has a number of sections which reflect God’s concern and care for the poor and oppressed. God is their advocate and protector, and God commands His people to do likewise. The 19th Chapter of Leviticus is a good example of this concern of God.

When you reap the harvest of your land, you shall not be so thorough that you reap the field to its very edge, nor shall you glean the stray ears of grain. Likewise, you shall not pick your vineyard bare, nor gather up the grapes that have fallen. These things you shall leave for the poor and the alien. I, the Lord, am your God.
You shall not steal. You shall not lie or speak falsely to one another. You shall not swear falsely by my name, thus profaning the name of your God. I am the Lord.

You shall not defraud or rob your neighbor. You shall not withhold over night the wages of your day laborer. You shall not curse the deaf, or put a stumbling block in front of the blind, but you shall fear your God. I am the Lord.

You shall not act dishonestly in rendering judgement. Show neither partiality to the weak nor deference to the mighty, but judge your fellow men justly. You shall not go about spreading slander among your kinsmen; nor shall you stand by idly when your neighbor’s life is at stake. I am the Lord.

You shall not bear hatred for your brother in your heart. Though you may have to reprove your fellow man, do not incur sin because of him. Take no revenge and cherish no grudge against your fellow countrymen. You shall love your neighbor as yourself. I am the Lord. (Lev.19:9-18).  

This section of the Torah states that God’s people are to be motivated by compassion and justice. The restrictions of justice for those who are advantaged are strongly emphasized with a charge to be compassionate to the marginal and disadvantaged. However, justice, especially that of the courts, is to be impartial, showing favoritism neither to the poor nor to the rich. But as we read the above we see that God is clearly concerned for those who have little and commands the people to treat them generously from their abundance and to give them justice. This is a command from the Lord.  

6 In this dissertation I will be using the following version of the bible: The New American Bible (New York: Catholic Book Publishing Co., 1970).

This advocacy role of God is also reflected in Deut. 24:

You shall not violate the rights of the alien or of the orphan, nor take the clothing of a widow as a pledge. For, remember, you were once slaves in Egypt, and the Lord, your God, ransomed you from there; that is why I command you to observe this rule.

When you reap the harvest in your field and overlook a sheaf there, you shall not go back to get it; let it be for the alien, the orphan or the widow, that the Lord, your God, may bless you in all your undertakings. When you knock down the fruit of your olive trees, you shall not go over the branches a second time; let what remains be for the alien, the orphan and the widow. When you pick your grapes, you shall not go over the vineyard a second time; let what remains be for the alien, the orphan, and the widow. (Duet. 24: 17-21).

In this section of the law, the weak and the disenfranchised are again specifically mentioned as needing some form of protection and care. The orphan and widow are two favorite categories because these belong to a class of people in ancient cultures who had lost their means of support which was the father or husband respectively. Obviously children are dependent upon their parents for protection and sustenance. Women who were widowed were also left in difficult straits, especially if there were no adult children to care for them. Women in these cultures were for the most part unable to play a role in public life and therefore unable to earn their own bread for the table. Therefore, these two groups represent the poor and the disenfranchised. Their rights are to be respected. One of these rights is the right to glean the fields and the trees. Harvesters are not to go back over the harvest, the leavings belong to the poor. The meaning of the alien will be
mentioned after the next quote from the book of Exodus. Joseph Blenkinsopp states that the gleaning rights provide a social blanket for the poor.\(^8\)

This concern for the poor and oppressed is also endorsed in Exodus:

You shall not molest or oppress an alien, for you were once aliens yourselves in the land of Egypt. You shall not wrong any widow or orphan. If ever you wrong them and they cry out to me, I will surely hear their cry. My wrath will flare up, and I will kill you with a sword; then your own wives will be widows, and your children orphans.

If you lend money to one of your poor neighbors among my people, you shall not act like an extortioner toward him by demanding interest from him. If you take your neighbor’s cloak as a pledge, you shall return it to him before sunset; for this cloak of his is the only covering he has for his body. What else has he to sleep in? If he cries out to me, I will hear him; for I am compassionate. (Ex. 22: 20-26).

Again the poor and the marginal are the concern of God. Richard J. Clifford, S.J. in the New Jerome Biblical Commentary’s article, ‘Exodus’ states that the protection for the alien, as an outsider, was because the alien was deprived of clan protection and was often poor. Therefore, these people would be pushed to the margins of society.\(^9\)

These commands from the Lord to his people point up the importance of care and concern for the poor and the marginal. Even as the Lord expresses his covenant of love, this compassion is to be extended within the communities of God’s people. However, it is not just the commands contained within the written Torah which speak to the people of


God about the importance of the poor and marginal in society. The following series of quotes are an indication that this concern spans the whole of the Judeo-Christian tradition.

First is the prophetic voice of Israel.

The Lord enters into judgment with his people’s elders and princes: It is you who have devoured the vineyard; the loot wrested from the poor is in your houses. What do you mean by crushing my people, and grinding down the poor when they look to you? Says the Lord, the God of hosts. (Is. 3: 14-15).

In Isaiah 3: 14-15 the Lord is the judge and prosecutor against the rich and powerful (elders and princes) for they are acting as oppressors. Joseph Jensen, O.S.B., in the New Jerome Biblical Commentary, “Isaiah” sees the violent verbs (devoured, crushing, grinding) as a strong way of condemning the social order which the legal processes of the day allowed. This section is a condemnation of allowing the rich to grow powerful at the expense of the poor and the powerless.10

In the book of the prophet Amos we hear the social message that Israel was to observe. This need of justice especially for the weak, oppressed, and poor is one of the major themes of the prophet. Michael L. Barre states that for Amos the quality of one’s relationship with God was dependent on how one related to one’s fellow members of the

covenant community. The following are a few examples of this prophet’s powerful condemnation of those who have chosen to ignore the command of God in this matter.

Thus says the Lord: For three crimes of Israel, and for four, I will not revoke my word; Because they sell the just man for silver, and the poor man for a pair of sandals. They trample the heads of the weak into the dust of the earth, and force the lowly out of the way. (Amos 2: 6-7a).

Hear this word, women of the mountain of Samaria, you cows of Bashan, You who oppress the weak and abuse the needy; Who say to your lords, ‘Bring drink for us!’ (Amos 4: 1).

Therefore, because you have trampled upon the weak and exacted of them levies of grain, though you have built houses of hewn stone, you shall not live in them! Though you have planted choice vineyards, you shall not drink their wine! (Amos 5: 11).

In the later prophets the theme of advocacy for the weak and poor continues this tradition in Israel. In the seventh chapter of Zachariah a review of the sinfulness of the ancestors is given and the prophet exhorts them to be conscious of what the Lord expects of them.

This word of the Lord came to Zachariah: Thus says the Lord of hosts: Render true judgment and show kindness and compassion toward each other. Do not oppress the widow or the orphan, the alien or the poor; do not plot evil against one another in your hearts. (Zach. 7: 10).

In the Wisdom literature of the Old Testament the same theme of respect of the poor and powerless is repeated. Below are two quotes from this literature.

He who oppresses the poor blasphemes his Maker, but he who is kind to the needy glorifies him.

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A rich man who oppresses the poor is like a devastating rain that leaves no food. (Prov. 14:31; 28:3).

All my being shall say, ‘O Lord who is like you, the rescuer of the afflicted man from those too strong for him, of the afflicted and the needy from their despoilers?’” (Ps.35:10)

In the Christian faith the movement of God, who draws close to the poor and marginal, has taken a clear and radical step in our favor.

In times past, God spoke in fragmentary and varied ways to our fathers through the prophets; in this, the final age, he has spoken to us through his Son, whom he has made heir of all things and through whom he first created the universe. (Heb. 1: 1-2).

This Son, known to us as Jesus Christ, who the apostle John (I John 2: 1) calls our advocate because of our sinfulness, is also the advocate of the poor and the powerless. The judgment scene described by the Gospel of Matthew clearly teaches the advocacy and solidarity of Jesus with those in difficult straits. It teaches us this advocacy of God continues in the Christ and our salvation is dependent on hearing and doing the command of the Son.

‘When the Son of Man comes in his glory, escorted by his royal throne, and all the nations will be assembled before him. Then he will separate them into two groups, as a shepherd separates sheep from goats. The sheep he will place on his right hand, a the goats on his left. The king will say to those on his right: ‘Come. You have my Father’s blessing! Inherit the kingdom prepared for you from the creation of the world. For I was hungry and you gave me food, I was thirsty and you gave me drink. I was a stranger and you welcomed me, naked and you clothed me. I was ill and you comforted me, in prison and you came to visit me.’ Then the just will ask him: ‘Lord, when did we see you hungry and feed you or see you thirsty and give you
drink? When did we welcome you away from home or clothe you in your nakedness? When did we visit you when you were ill or in prison? The king will answer them: ‘I assure you, as often as you did it for one of my least brothers, you did it for me’.

‘Then he will say to those on his left: ‘Out of my sight, you condemned, into that everlasting fire prepared for the devil and his angels! I was hungry and you gave me no food, I was thirsty and you gave me no drink. I was away from home and you gave me no welcome, naked and you gave me no clothing. I was ill and in prison and you did not come to comfort me.’ Then they in turn will ask: Lord, when did we see you hungry or thirsty or away from home or naked or ill or in prison and not attend you in your needs?’ He will answer them: ‘I assure you, as often as you neglected to do it to one of these least ones, you neglected to do it to me.’ These will go off to eternal punishment and the just to eternal life’. (Matthew 25: 31-46).

Moving to the Letters of the New Testament we see the same concern for the poor and powerless. The continuation of this spirit in the quotes from St. Paul’s letter to the Galatians, St. John’s first letter, and the letter to the Hebrews are given below.

On the contrary, recognizing that I had been entrusted with the gospel for the uncircumcised, just as Peter was for the circumcised [for he who worked through Peter as his apostle among the Jews had been at work in me for the Gentiles], and recognizing, too, the favor bestowed on me, those who were the acknowledged pillars, James, Cephas, and John, gave Barnabas and me the handclasp of fellowship, signifying that we should go to the Gentiles as they to the Jews. The only stipulation was that we should be mindful of the poor—the one thing that I was making every effort to do. (Gal. 2: 7-10).

The way we came to understand love was that he laid down his life for us; we too must lay down our lives for our brothers. I ask you, how can God’s love survive in a man who has enough of this world’s goods yet closes his heart to his brother when he sees him in need? Little children, let
us love in deed and in truth and not merely talk about it. (1 John 3: 16-18).

Love your fellow Christians always. Do not neglect to show hospitality, for by that means some have entertained angels without knowing it. Be as mindful of prisoners as if you were sharing their imprisonment, and of the ill-treated as of yourselves, for you may yet suffer as they do. (Hebrews 13: 1-3).

Thomas W. Leahy, S.J., sees this continuation of the Old Testament teaching that the poor and the marginal are the object of God’s special care, especially, in the letter of James. The readers of this letter are to identify themselves with the poor. Why would the Christian community give deference to the rich when it is they who oppress them? The poor and marginal are especially damaged by the oppressive rich.¹²

Suppose there should come into your assembly a man fashionably dressed, with gold rings on his fingers, and at the same time a poor man in shabby clothes. Suppose further that you were to take notice of the well dressed man and say, “Sit right here, please,” where as you were to say to the poor man, “You can stand!” or “Sit over there by my foot rest.” Have you not in a case like this discriminated in your hearts? Have you not set yourselves up as judges handing down corrupt decisions?

Listen, dear brothers. Did not God choose those who are poor in the eyes of the world to be rich in faith and heirs of the kingdom he promised to those who love him? Yet you treated the poor man shamefully. Are not the rich exploiting you? They are the ones who hale you into the courts and who blaspheme that noble name which has made you God’s own. (James 2: 2-7).

In review of the above biblical texts we see that God is the primary advocate of the poor. The cause of advocacy is secondarily given to instruments of concern for them.

These secondary instruments (the prophets, sages and scribes) of the Old Testament are themselves caught up in a vocation to call the people of God to be people of compassion and concern for the poor. Each of them as religious leaders speaks the cause of God’s compassion for the marginal and disenfranchised. The cause of advocacy is voiced not only through their uniqueness of person but through their office of teachers of and preachers to Israel. Therefore, in a secondary, but real sense, they also are advocates of the needy. In the case of the New Testament Christ is clearly the Advocate par excellence. As the Advocate (parakletos of I John 2: 1) Jesus is the intercessor and priest who pleads our cause before the Father, and commands us, the Church, to share their care and compassion to the poor and powerless (Matthew 25: 31- 46). This voice of advocacy, now expressed in the Gospel of the Incarnate Word, is given and mediated by apostolic teaching as we have seen above. Therefore, in speaking of the role of advocacy of the Church in the modern prison system or in any other area of human need, it is important to understand it is first God who is the Advocate. The apostolic voice is to speak God’s concern for the poor and powerless. It would seem that this call to be an advocate is not limited to Church leadership, but like the prophetic voice within the Church, it speaks to others when the Spirit of God wills it. However, as the apostolic voice speaks the message of the Christ to the Church and to the world, it would also seem that the apostolic voice in the Church, as it speaks God’s compassion and care for the poor, is an ordinary and fitting instrument of this Divine Initiative.

In the late nineteenth century new economic systems and philosophies appeared on the scene. Liberal capitalism and materialistic socialism began to influence the
economics of industrial Europe. In 1891 Pope Leo XIII, recognizing the danger of these philosophies and the dangerous implications for the worker, issued the encyclical, *Rerum Novarum*. In reading the signs of the times this Pontiff, acting as the vicar of Christ, exercised the apostolic voice in advocacy for industrial workers and their families. In this encyclical the ever present concern of God for the poor is given form in the Church by the successor of Peter. This concern is stated in the opening paragraph.

> But all agree, and there can be no question whatever, that some remedy must be found, and quickly found, for the misery and wretchedness which press so heavily at the moment on the large majority of the very poor.\(^{13}\)

In this same paragraph the Pontiff goes on to describe the causes of poverty which the Church witnessed in his time.

> The ancient workmen’s guilds were destroyed in the last century, and no other organization took their place. Public institutions and the laws have repudiated the ancient religion. Hence by degrees it has come to pass that workingmen have been given over, isolated and defenseless, to the callousness of employers and the greed of unrestrained competition. The evil has been increased by rapacious usury, which, although more than once condemned by the Church, is nevertheless, under a different form but with the same guilt, still practiced by avaricious and grasping men. And to this must be added the custom of working by contract, and the concentration of so many branches of trade in the hands of a few individuals, so that a small number of very rich men have been able to lay upon the masses of the poor a yoke little better than slavery itself.\(^{14}\)

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\(^{13}\) *Rerum Novarum*. 2, O’Brien and Shannon, p. 15.

\(^{14}\) Ibid.
Therefore, the encyclical has stated that its express goal is to address the problem of the poor working class of the Industrial Revolution. Pope Leo XIII sees the Church as an advocate for the poor working person. In his encyclical he outlines what is for him ways to alleviate this serious problem. The following quotes are a summation of the Pope’s ‘bill of rights’ for the emerging western industrial worker and the worker’s family.

The working person from nature, from his/her existence, has certain rights. There is the right to own property and to have possessions.

It is surely undeniable that, when a man engages in remunerative labor, the very reason and motive of his work is to obtain property, and to hold it as his own private possession. If one man hires out to another his strength or his industry, he does this for the purpose of receiving in return what is necessary for food and living; he thereby expressly proposes to acquire a full and real right, not only to the remuneration, but also to the disposal of that remuneration as he pleases. Thus, if he lives sparingly, saves money, and invests his savings, for greater security, in land, the land in such a case is only his wages in another form; and, consequently, a working man’s little estate thus purchased should be as completely at his own disposal as the wages he receives for his labor.15

There is, also, the rights of the family of the worker within society. Pope Leo XIII in writing this initial encyclical sets the standard for the tradition that family life, its protection and its health is of primary importance to the well being of not only individual humans but of human society.

A family, no less than a State, is, as we have said, a true society, governed by a power within itself, that is to say, by the father. Wherefore, provided the limits be not transgressed which are prescribed by the very purposes for

15Ibid. 4, p. 15.
which it exists, the family has, at least, equal rights with the State in the choice and pursuit of these things which are needful to its preservation and its just liberty . . . . If the citizens of a State—that is to say, the families—on entering into association and fellowship, experienced at the hands of the State hindrance instead of help, and found their rights attacked instead of being protected, such associations were rather to be repudiated than sought after.\textsuperscript{16}

The pontiff in this encyclical also teaches that the Church and State are to be involved in the relief of poverty. This involvement has the nature of an obligation to help those who are destitute in their midst.

Neither must it be supposed that the solicitude of the Church is so occupied with the spiritual concerns of its children as to neglect their interests, temporal and earthly. Its desire is that the poor, for example, should rise above poverty and wretchedness, and should better their condition in life; and for this it strives.\textsuperscript{17}

To the State the interests of all are equal whether high or low. The poor are members of the national community equally with the rich; they are real component parts, living parts, which make up, through the family, the living body; and it need hardly be said that they are by far the majority. It would be irrational to neglect one portion of the citizens and to favor another; and therefore the public administration must duly and solicitously provide for the welfare and the comfort of the working people, or else that law of justice will be violated which ordains that each shall have his due.\textsuperscript{18}

And further in the same paragraph the pontiff goes on to say:

\textsuperscript{16}Ibid. 10, p.18.

\textsuperscript{17}Ibid. 23, p.25.

\textsuperscript{18}Ibid. 27, p.26.
Justice, therefore, demands that the interests of the poorer population be carefully watched over by the administration, so that they who contribute so largely to the advantage of the community may themselves share in the benefits they create—that being housed, clothed, and enabled to support life, they may find their existence less hard and more endurable. It follows that whatever shall appear to be conducive to the well-being of those who work should receive favorable consideration. Let it not be feared that solicitude of this kind will injure any interest; on the contrary it will be to the advantage of all; for it cannot but be good for the commonwealth to secure from misery those on whom it so largely depends.\(^{19}\)

Rights must be religiously respected wherever they are found; and it is the duty of the public authority to prevent and punish injury, and to protect each one in the possession of his own. Still, when there is question of protecting the rights of individuals, the poor and helpless have a claim to special consideration. The richer population have many ways of protecting themselves, and stand less in need of help from the State; those who are badly off have no resources of their own to fall back upon, and must chiefly rely upon the assistance of the State. And it is for this reason that wage earners, who are, undoubtedly, among the weak and necessitous, should be specially cared for and protected by the commonwealth.\(^{20}\)

The Holy Father continues with his ‘bill of rights’ in his encyclical to deal with the rights of working people and indeed of all people. The first is the religious right of rest on the Sabbath. The need of rest from work is important. It gives a time of restoration and removal from the day to day work which without relief begins to be a destructive form of drudgery for the overwhelming majority of human beings.

\(^{19}\text{Ibid. 27, p.27.}\)

\(^{20}\text{Ibid. 29, p.28.}\)
In this respect all men are equal; there is no difference between rich and poor, master and servant, ruler and ruled, ‘for the same is Lord over all.’ No man may outrage with impunity that human dignity which God himself treats with reverence, nor stand in the way of the higher life which is the preparation for the eternal life of heaven. Nay, more; a man has here no power over himself. To consent to any treatment which is calculated to defeat the end and purpose of his being is beyond his right; he cannot give up his soul to servitude; for it is not man’s own rights which are here in question, but the rights of God, most sacred and inviolable.  

The right of the worker to the spiritual element of human life also extends to hours of work and labor. Relief from monotonous and, many times, exhausting work is an essential part of protecting the poor worker.

If we turn now to things exterior and corporal, the first concern of all is to save the poor workers from the cruelty of grasping speculators, who use human beings as mere instruments for making money. It is neither justice nor humanity so to grind men down with excessive labor as to stupefy their minds and wear out their bodies.

The rights of children are also defended. This is also a significant area because it is another area of advocacy that the Church is to be involved with in her teaching.

And in regard to children, great care should be taken not to place them in workshops and factories until their bodies and minds are sufficiently mature. For just as rough weather destroys the buds of spring, so too early an experience of life’s hard work blights the young promise of

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21Ibid. 32, p.29.

22Ibid. 33, p.30.
a child's powers, and makes any real education impossible.\textsuperscript{23}

Finally, toward the end of the encyclical Pope Leo XIII speaks out about the importance of the just wage for the working class.

Now, if we were to consider labor merely so far as it is personal, doubtless it would be within the workman's right to accept any rate of wages whatever; for in the same way as he is free to work or not, so he is free to accept a small remuneration or even none at all. But this is a mere abstract supposition; the labor of the workingman is not only his personal attribute, but it is necessary; and this makes all the difference. The preservation of life is the bounden duty of each and all, and to fail therein is a crime. It follows that each one has a right to procure what is required in order to live; and the poor can procure it in no other way than by work and wages.\textsuperscript{24}

As we review this first modern social encyclical we see a clear advocacy position of the Church in regards to the poor working class. At this time, at the turn of the 19\textsuperscript{th} century, when liberalism was a powerful and ruling philosophy of Europe, this Pope clearly speaks out on the issues and rights of the poor, on the right to property, and on the rights of the family. He speaks out on the need of the State to be concerned for the poor. The Pontiff speaks out on the different and varied rights of the industrial worker, the right of the Sabbath observance, just hours and safe working conditions, evils of child labor and the need of just wages. Under the leadership of Pope Leo XIII, the Church responded to its role to reflect the advocacy of God for the poor and marginal. The encyclical,

\textsuperscript{23}Ibid.

\textsuperscript{24}Ibid. 34, p.31.
Rerum Novarum, does clearly express this advocacy role for the Church, to be God’s spokesman for the poor working person who is all too many times at the disposal of the powerful and the affluent. However, O’Brien and Shannon point out that this first encyclical on social justice also had the interest of establishing order in a society which was facing the storms of different ideologies at the end of the 19th century. The encyclical asks the poor to be loyal and obedient subjects of authority. This emphasis on stability is a strong theme which is clearly present and seems to obscure what modern authors would see as the rights of the oppressed. However, this first social encyclical does pick up the cause of those in society who are at the margin in human life, namely the poor working class of the late nineteenth century in Europe.

Does the Church’s magisterium stop with this or does she expand her horizons to include more human groups and more areas of human life? Before moving to the next encyclical it is important to note that the Church’s advocacy, though clearly pointed toward the working poor, is not unbalanced. When Pope Leo XIII supports the working poor, he does not reject the rightful position of the State in human life. The State is not to be done away with, but has rights and duties in dealing with current social conditions, i.e. enacting justice and providing for the common good. Also, capitalism is not completely ruled out of the social equation. The worker is to respect the owner and employer, but the Pontiff is very clear that capital is not to take advantage of the poor and the destitute. Capital is to respect their dignity as human beings. Justice is the standard which the rich

\(^{25}\)Catholic Social Thought, p.12.

\(^{26}\)Ibid. 25-27, p.26-27.
are not to corrupt but are held to and are to observe.\textsuperscript{27} This will be borne out through out the Church’s teaching on social issues. That is, although the poor and marginal are clearly pointed out as needing justice, support and care, it is always within a general framework of justice in the total system. In the case of \textit{Rerum Novarum}, the Pontiff supports the rights of the State, of owners and employers, and of unions; but these rights are directed to his concern for the working person.

The next encyclical on social problems in the modern age is \textit{Quadragesimo Anno} written by Pope Pius XI in 1931, forty years after \textit{Rerum Novarum}. In this encyclical Pius XI speaks of the great benefits society and the Church gained from \textit{Rerum Novarum} and goes on to speak of the crises faced by the decade of the ‘30’s. In his praising of the encyclical of Pope Leo XIII, Pope Pius XI offers the advocacy of Pope Leo XIII as a model for the Church in response to the poor worker, but he is also careful to balance this with his affirming his successor’s support of the State and of capital. Pope Pius XI dedicates an entire section of his encyclical to \textit{Rerum Novarum}.\textsuperscript{28}

\textit{Quadragesimo Anno} expands the area of advocacy from the industrial working person to include a greater horizon. Pius XI speaks out for those in the third world (colonies in the new world and the ancient civilizations of the Far East) and for the hired rural worker who is too often over looked.

But after modern machinery and modern industry had progressed with astonishing speed and become common in many newly colonized countries as well as in the ancient

\textsuperscript{27}Ibid. 15-16, p. 20-21.

\textsuperscript{28}\textit{Quadragesimo Anno}, 16-98, O’Brien and Shannon (eds.), pp. 45-64.
civilizations of the Far East, the number of the dispossessed laboring masses, whose cries mount to heaven from these lands, increased exceedingly.

Moreover, there is the immense army of hired rural laborers whose condition is depressed in the extreme, and who have no hope of ever ‘obtaining a share in the land.’ These, too, unless efficacious remedies be applied, will remain permanently in a proletarian condition.

It is true that there is a formal difference between pauperism and proletarianism. Nevertheless, the immense number of propertyless wage earners on the one hand, and the superabundant riches of the fortunate few on the other, is an unanswerable argument that the earthly goods so abundantly produced in this age of ‘industrialism’ are far from rightly distributed and equitably shared among the various classes of men.29

Keeping this expansion in advocacy in mind, the Pontiff still is concerned about balance and harmony of the social structures. Pius XI is quite fearful of capitalism which leads to the domination of the major segments of society, as well as being fearful of communism and socialism which lead the worker away from the rights of family and the individual use of property.30

Therefore, we see a continuity between the two Popes in the advocacy in behalf of the working poor within a balanced social frame of capital, labor and State. However, there is a widening of the horizon beyond Europe to the New World and the ancient Far East, as industrialization spreads around the globe. Also, the advocacy on behalf of the hired farm worker is now mentioned for the first time. With Quadragesimo Anno we see

29Ibid. 59-60, p. 56.

30Ibid. 101-122, p. 64-69.
an expansion in the role of advocacy to include more than just the industrialized worker of the West. It has now become, also, global and rural.

On May 15, 1961, a third encyclical on social teaching (Mater et Magistra) was given to the Church by Pope John XXIII. It reaffirmed the teachings of Leo XIII in regard to need of a just wage, the protection of private property, the importance of unions, and the involvement of the State in the social issues of its people. This is also true in regard to the teachings of Pius XI. John XXIII praises his (Pius XI) defense of the just wage, private property and his predecessor’s plea for a harmonious society with workers being allowed to participate in the companies and corporations they work for.31

After the affirmation of his predecessors, which solidifies the previous work in the social tradition, Pope John XXIII carefully brings out new nuances in social thought. The difference consists not so much in his stating new areas of social thinking but in the tendency to shift existing thought along radical lines. An example of this is that the State for John XXIII is to be much more active in the protection of the people than the Church had previously advocated.32 John XXIII develops the areas of advocacy for small business, artisans and craftsmen. Once again the government is to act as a guardian and protector to this section of society. This emphasis, first mentioned by Pius XII, is in paragraphs 84 through 90 inclusive.33

31Mater Et Magistra, 10-121, O’Brien and Shannon (eds.), pp 85-104.

32Ibid. 54, p. 92-93.

33Ibid. 84-90, p.98.
Although farm workers were mentioned by Pius XI, it was John XXIII who expanded this area of social concern. A major portion of the encyclical is dedicated to this concern.\textsuperscript{34} This advocacy to the rural poor is also to be shared by the State. The State is to be necessarily involved in this economic sector. The following quote points up this concern of the Pontiff.

To achieve orderly progress in various sectors of economic life, it is absolutely necessary that as regards agriculture, public authorities give heed and take action in the following matters: taxes and duties, credit, insurance, prices, the fostering of requisite skills, and, finally, improved equipment for rural enterprises.

As regards taxation, assessment according to ability to pay is fundamental to a just and equitable system.

But in determining taxes for rural dwellers, the general welfare requires public authorities to bear in mind that income in a rural economy is both delayed and subject to greater risk. Moreover, there is difficulty in finding capital so as to increase returns.

Accordingly, those with money to invest are more inclined to invest it in enterprises other than in the rural economy. And for the same reason, rural dwellers cannot pay high rates of interest. Nor are they generally able to pay prevailing market rates for capital wherewith to carry on and expand their operations. Wherefore, the general welfare requires that public authorities not merely make special prevision for agricultural financing, but also for establishment of banks that provide capital to farmers at reasonable rates of interest.\textsuperscript{35}

In the encyclical \textit{Mater et Magistra} the whole question of justice between nations begins to appear. Pope John XXIII addresses the need for cooperation and equity among the nations of the world. Here, the Church stands in advocacy for the poor nations in the

\textsuperscript{34}Ibid. 123-149, p. 104-109.

\textsuperscript{35}Ibid. 131-134, p. 106.
world. The Pontiff elucidates the demand of justice in a number of areas: food surpluses, scientific, technical and financial cooperation, equitable distribution of wealth, respect for national trading and customs, disinterested aid (aid given freely), and finally a respect for the spirituality of the people of another nation.\textsuperscript{36}

In this encyclical we see that Pope John XXIII not only is interested in preserving the traditional areas of social thought in the Church, but he expands and develops the areas of advocacy to the farmer and the poor rural worker, to the artisan craftsman and the small business person. Finally, there is a global concern and advocacy for the poor nations of the world.

Donal Dorr in his book, \textit{Option for the Poor}, gives a nice summary of the shift in the Catholic church’s position in regard to the different sectors of society that John XXIII’s encyclicals enacted.

Pope John was optimistic about the world, particularly about the modern world. His two major social encyclicals showed that he was even optimistic about Western capitalist society and did not seek a complete change of the system. He felt it had already been humanised to some degree through various reforms, and that it could become more humane in the future through much more intervention by the State to protect the interests of the poor. So he moved Catholic teaching away from its traditional oppositions to the ‘Welfare State’ approach. At the international level he also favoured a similar approach, with some kind of world government to oversee the process; and he gave a high priority to the issues of international development and social justice at the international level.

In spite of Pope John’s ‘moderate’ position, his encyclical \textit{Mater et Magistra} changed the whole direction of Catholic social teaching. Through he still insisted on the principle of

\textsuperscript{36}Ibid. 157-177, p. 110-113.
subsidiarity, his proposals for a lot of State intervention amounted to approval of the Welfare State—or at least it gave the impression of doing so. In both economic and political affairs Pope John favoured a certain ‘opening to the left’. This meant that left-wing and social democratic people began to see the Church as a possible ally while right-wing and conservative sectors of society could no longer presume that the Church would give them religious backing. Pope John’s distancing of the Church from right-wing forces was quite deliberate. He realised that the Church’s over-emphasis on the right to private property and its suspicion of State intervention had allowed Catholic social teaching to become an ideological weapon used by the wealthy and the powerful to resist social change. By breaking decisively with this trend he laid the foundations for ‘an option for the poor’ by later Church leaders; and he gained for the Church new allies and new enemies.  

Two years after the encyclical Mater et Magistra Pope John XXIII authored another encyclical on social issues, Pacem In Terris. This encyclical was a follow up on his first and emphasized again the political and economic areas of social problems. However, some new areas of the Church’s ever expanding role as advocate surfaced. In the first section of the encyclical Pope John XXIII issued his own comprehensive ‘bill of rights’ for humanity. Beginning with paragraph eleven and moving through to paragraph forty five, an extensive charter of human rights and duties is given. It covers not only political and social rights, but also economic rights, such as a right to work and a right to safe working conditions. In this the rights of the immigrant are stated in paragraph twenty five.


38 Pacem In Terris, 7-9 O’Brien and Shannon (eds), p.132.

Every human being has the right to freedom of movement and of residence within the confines of his own country; and, when there are just reasons for it, the right to emigrate to other countries and take up residence there. The fact that one is a citizen of a particular state does not detract in any way from his membership in the human family as a whole, nor from his citizenship in the world community.\textsuperscript{40}

This is again mentioned in paragraph 106ff. in the encyclical.\textsuperscript{41} It is interesting to note that these two sections specifically continue the tradition of the protection of the ‘alien in the land’ mentioned previously in this Chapter when reviewing advocacy in the Old Testament.

Although women and their rights are mentioned in this encyclical and in past encyclicals, they were always mentioned in the role of wife, housekeeper and mother. In the section of characteristics of our age, beginning with paragraph thirty-nine, the Pontiff writes one paragraph that begins to take note of the new roles of women in the modern age.

Secondly, it is obvious to everyone that women are now taking part in public life. This is happening more rapidly perhaps in nations of Christian civilization, and, more slowly, but broadly, among peoples who have inherited other traditions or cultures. Since women are becoming ever more conscious of their human dignity, they will not tolerate being treated as mere material instruments, but demand rights befitting a human person both in domestic and in public life.\textsuperscript{42}

\begin{footnotes}
\item[40]Ibid. 25, p.134.
\item[41]Ibid. 106, p.148.
\item[42]Ibid. 41, p. 137.
\end{footnotes}
Also, in this encyclical there are references which condemn racism,\textsuperscript{43} class distinction\textsuperscript{44}, and the oppression of political refugees.\textsuperscript{45} This encyclical, which concerns itself with the rights of humanity (advocacy for all of humanity) which can never be surrendered, also concerns itself about arms reduction, disarmament, and relationship between nations. Pope John XXIII expands the ever wider list of the Church’s advocacy for immigrants, women, political refugees, minorities within nations,\textsuperscript{46} and an end to class discrimination. During the reign of Pope John XXIII the tradition of social justice was reaffirmed, expanded and moved not just in the traditional economic areas but began to expand the political needs of social reform.

The above two encyclicals were not the only contribution of this Pontiff. The aged Pope John XXIII made the radical move of calling an ecumenical council (Vatican II) to update the Catholic Church in all the aspects of its life, especially the challenges of modern life and the Church’s need to respond pastorally to these challenges. In the Council the document, \textit{Gaudium et Spes}, \textit{Pastoral Constitution on the Church in the Modern World}, was written. In this work the situation of modern humanity is described, the dignity of the human race and the mystery of sin and evil are discussed, and the

\textsuperscript{43}Ibid. 44, p. 138; 86, p.145.

\textsuperscript{44}Ibid.

\textsuperscript{45}Ibid. 103-108, p. 147-148.

\textsuperscript{46}Ibid. 94-97, p.146.
challenge of the modern world to the Church is put forth. In the first part of the work the traditional areas of the Church’s advocacy are reaffirmed.\textsuperscript{47}

However, it is in Part II of \textit{Gaudium et Spes} that specific areas of advocacy are developed. Although they were mentioned previously in earlier encyclicals, they are developed to a deeper extent in this document. The areas are, specifically, marriage, family life and human culture. In regard to marriage paragraph forty seven (47) of the document succinctly states the Church’s position in regard to the need and importance of this institution in regard to human life.

The well-being of the individual person and of human and Christian society is intimately linked with the healthy condition of that community produced by marriage and family. Hence Christians and all men who behold this community in high esteem sincerely rejoice in the various ways by which men today find help in fostering this community of love and perfecting its life, and by which spouses and parents are assisted in their lofty calling. Those who rejoice in such aids look for additional benefits from them and labor to bring them about.

Yet the excellence of this institution is not everywhere reflected with equal brilliance. For polygamy, the plague of divorce, so-called free love, and the other disfigurements have an obscuring effect. In addition, married love is too often profaned by excessive self-love, the worship of pleasure, and illicit practices against human generation. Moreover, serious disturbances are caused in families by modern economic conditions, by influences at once social and psychological, and by the demands of civil society. Finally, in certain parts of the world problems resulting from population growth are generating concern.

All these situations have produced anxious consciences. Yet, the power and strength of the institution of marriage and family can also be seen in the fact that time and again, despite the difficulties produced, the profound changes in

\textsuperscript{47}Gaudium Et Spes, 23-32, O’Brien and Shannon (eds.), pp.179-185.
modern society reveal the true character of this institution in one way or another. Therefore, by presenting certain key points of Church doctrine in a clearer light, this Council wishes to offer guidance and support to those Christians and other men who are trying to keep sacred and to foster the natural dignity of the married state and its superlative value.48

The council dedicated one whole chapter to the topic of marriage and family. The importance of the fruitfulness of conjugal love, the holiness of the bond, and the family are taught.49 It is noted that the respect for human life is also part of this chapter and is seen as part of the Church’s social doctrine.

For God, the Lord of life, has conferred on men the surpassing ministry of safeguarding life—a ministry which must be fulfilled in a manner which is worthy of man. Therefore from the moment of its conception life must be guarded with the greatest care, while abortion and infanticide are unspeakable crimes. The sexual characteristics of man and the human faculty of reproduction wonderfully exceed the dispositions of lower forms of life. Hence the acts themselves which are proper to conjugal love and which are exercised in accord with genuine human dignity must be honored with great reverence.50

Before leaving the section of marriage and family, another area of advocacy needs to be mentioned. This is the area of youth found in paragraph fifty two (52).

The right of parents to beget and educate their children in the bosom of the family must be safeguarded. Children, too, who unhappily lack the blessing of a family should be

48Ibid. 47, p.195-196.
49Ibid. 47-52, p.195-201.
50Ibid. 51, p.199-200.
protected by prudent legislation and various undertakings, and provided with the help they need.\textsuperscript{51}

In chapter two of part II of the document the council fathers deal with the importance of human culture. In the challenge that culture gives to the modern world, principles of development and duties of the Christian toward culture are discussed in paragraph fifty nine (59). This paragraph gives a good summary of the Church’s advocacy of human culture and reasons why it is important to the human family. It states that it flows from our spiritual and social nature and is in need of just freedom if it is to grow. It is to be respected and be considered inviolate that it may incarnate the order of faith into reason and art.\textsuperscript{52}

The council document, while reaffirming the traditional areas of advocacy of the Catholic Church, advances some specific areas, thus increasing the scope and range where the Catholic Church expresses a need to take a stand. \textit{Gaudium et Spes}, specifically, stands in advocacy for marriage and family, human life, youth and the protection of human culture.

Before leaving this document it would perhaps be important to mention at this time two areas that the Church was and is concerned about, which indirectly bear upon advocacy. These are the areas in which nations deal with one another politically and economically and the question of peace.\textsuperscript{53} Church social thought realized early on that

\textsuperscript{51}Ibid. 52, p. 200-201.

\textsuperscript{52}Ibid. 59, p. 205.

\textsuperscript{53}Ibid., Chapter 3 in \textit{Gaudium et Spes} is dedicated to the question of economics and national and international interests. Chapter 4 deals with national and international politics.
advocacy is not just standing in solidarity with those sections, institutions and areas of human life that find themselves vulnerable and powerless before the political and economic powers that exist. But the Church, especially with Pope John XXIII, understands that the problems of humanity also involve its structures and its institutions, and thus there is necessarily the need to be involved in areas of international trade, political reform and international talks involving disarmament. If the Church does not speak out on this level regarding injustices and peril to the human family, then her standing in solidarity and advocacy with the different segments of humanity who need her voice is weakened. When this chapter began and the concept of advocacy was being dealt with, I spoke of direct and indirect advocacy. What was just written above is a good example of indirect advocacy and its importance in modern Catholic social thought. The Church in its advocacy role must address not only the cause of the poor and the marginal but also be their advocates against the structures and philosophies which bring about their oppression.

With the death of Pope John XXIII, Cardinal Montini became Pope Paul VI. Pope Paul VI is responsible for three social works during his reign. The first work, *Populorum Progressio*, dated March 26, 1967, continues the concern for a wide sweep of international issues, which was a benchmark of his predecessor’s social thought. In the second part the Pontiff mentions four areas in which the human family can develop and grow in the benefits of this life and salvation. The first area is that developed nations not only have an obligation to see that their responsibilities to their own citizens and the

Finally Chapter 5 deals with the challenge of peace; and the promotion of a community nations.
common good of the nation are fulfilled, but they also have an obligation to help with
disinterested care and compassion those countries who are struggling with severe poverty
and loss in their own countries.\textsuperscript{54}

The second area of the development of the human family deals with the question of trade, and just and equitable relationships between nations in the area of economics and cultural development.\textsuperscript{55}

In this area of trade the Pope speaks of two other obstacles to equity and solidarity, and these are nationalism and racism. These two tendencies in human society effectively block areas of development of human beings in large segments of the world.\textsuperscript{56}

The third area addressed by the Holy Father in this section is a call to universal charity. Pope Paul VI, like his predecessors, realizes that true progress and development of humanity are rooted in a deep caring one for another, as individuals, as societies, and as peoples. Technology, capital, economic and political expertise are the tools to accomplish this. There needs to be a development of people spiritually to help guarantee that this development is fully human and permanent.\textsuperscript{57}

The last section addressed by the Pontiff is the question of peace. For Pope Paul VI political economic justice and peace are intertwined.

\textsuperscript{54}Populorum Progressio, 45-55, O'Brien and Shannon (eds.), pp. 250-253.

\textsuperscript{55}Ibid. 56-65, p. 253-255.

\textsuperscript{56}Ibid. 62-63, p. 255.

\textsuperscript{57}Ibid. 73, p. 257.
To wage war on misery and to struggle against injustice is to promote, along with improved conditions, the human and spiritual progress of all men, and therefore the common good of humanity. Peace cannot be limited to a mere absence of war, the result of an ever precarious balance of forces. No, peace is something that is built up day after day, in the pursuit of an order intended by God, which implies a more perfect form of justice among men.58

In the above few areas the Holy Father continues the work of advocacy emphasized by Pope John XXIII and the Second Vatican Council. For individuals who are suffering economic deprivation, one on one charity does not answer the problems. The problems involve the attitudes of nations toward peace and justice, dealing with such problematic issues as free trade, private ownership and social responsibility, free markets and competition. The Pontiff warns of these dangers, and emphasizes the importance of the human being in matters of economics, policies and technology.

Before leaving this document, it is important to deal with the first part of this work and the question of advocacy in the Church’s social thought. In this part of the encyclical Pope Paul VI speaks of a global vision of humanity. When one takes on the role of advocate, there needs to be a vision and direction, not only for ourselves but for those for whom we stand as an advocate. The Pope gives us a vision of humanity which is developing and maturing individually and socially. This growth is not just individual growth to individual transcendence and perfection, but is also communal growth moving us to build and develop civilization itself. O’Brien and Shannon sum up the Pontiff’s

58Ibid. 76, p. 258.
vision of development of humanity and the Church’s advocacy of human dignity, in the following paragraph:

A major theme is Paul’s vision of development, which takes place on an individual level and is oriented to a transcendent humanism, growth always open to further maturity. Development is also social because each individual is part of a larger whole. True and integral development includes the acquisition of knowledge, culture, and the necessities of life; the desire for cooperation and peace, with a corresponding recognition of human dignity; the recognition of supreme values and the destiny of the person; and the acceptance of faith, which opens individuals to union with God.\textsuperscript{59}

Thus, the Pope gives us a dynamic view of humanity which has direction and hope. It is a vision which takes into account the economic conditions under which humanity lives. The Church, if she wishes to stand in advocacy with the poor and powerless of the world, needs to share with them her own hopeful vision of growth, maturity and destiny of the human being and humanity. Pope Paul VI begins to offer this.

In 1971 Pope Paul VI authored another social document on the social problems of the day. It was an apostolic letter written eighty years after \textit{Rerum Novarum} and thus is entitled \textit{Octogesima Adveniens}. Once again the tradition of advocacy of the previous social documents is reaffirmed. In paragraph eight to paragraph twenty-one Pope Paul VI reviews the victims of the modern social world, which include youth, women, laborers, and all victims of discrimination on account of their race, origin, color, culture, sex or religion.\textsuperscript{60}

\textsuperscript{59} Ibid. p. 238.

\textsuperscript{60} \textit{Octogesima Adveniens}, 8-21, O’Brien and Shannon (eds.), pp. 267-273.
However, in this letter the Pontiff expands the horizon of advocacy in a number of areas. In paragraph fifteen (15) he speaks of the Church directing her attention to the new poor, “the handicapped and the maladjustive, the old, and different groups of those on the fringe of society”. The marginal people of society are explicitly mentioned as needing the Christian Church and other institutions of society as advocates for their welfare.\(^{61}\)

Another new area or dimension of advocacy that the letter deals with is the problem of urbanization. The growth of the cities in the modern world has drawn countless millions of rural workers into the cities looking for opportunities, when in fact there are none. The cities, already too large and dehumanized, are presently incapable of offering any hope.\(^{62}\)

Finally, it is in this letter that the problem of the environment is raised for the first time in Catholic social thought. Because the damage to the environment is global, it effects the entire human family.

Man is suddenly becoming aware that by an ill-considered exploitation of nature he risks destroying it and becoming in his turn the victim of this degradation. Not only is the material environment becoming a permanent menace—pollution and refuse, new illnesses and absolute destructive capacity—but the human framework is no longer under man’s control, thus creating an environment for tomorrow which may well be intolerable. This is a wide-ranging social problem which concerns the entire human family.\(^{63}\)

\(^{61}\text{Ibid. 15, p. 270.}\)

\(^{62}\text{Ibid. 8-12, p.267.}\)

\(^{63}\text{Ibid. 21, p.273.}\)
After the publication of *Octogesima Adveniens*, a synod of Bishops was called that same year to deal with the question of justice. This synod produced a Church document entitled, *Justice in the World*. In this document, which is fairly short, there is contained a number of points that relate to the question of the Church’s role of advocacy. In the “Introduction” of *Justice in the World*, the Bishops say that the Church’s vocation is to bring Good News to the poor and the oppressed, and to work for the liberation of humanity from oppression.

Listening to the cry of those who suffer violence and are oppressed by unjust systems and structures, and hearing the appeal of a world that by its perversity contradicts the plan of its Creator, we have shared our awareness of the Church’s vocation to be present in the heart of the world by proclaiming the Good News to the poor, freedom to the oppressed, and joy to the afflicted. . . . The uncertainty of history and the painful convergences in the ascending path of the human community direct us to sacred history; there God has revealed himself to us, and made known to us, as it is brought progressively to realization, his plan of liberation and salvation which is once and for all fulfilled in the Paschal Mystery of Christ. Action on behalf of justice and participation in the transformation of the world fully appear to us as a constitutive dimension of the preaching of the Gospel, or, in other words, of the Church’s mission for the redemption of the human race and its liberation from every oppressive situation.64

With this statement the Church has stated that advocacy to the poor, the oppressed, the marginal, the discriminated against, etc. is not just an “avocation” but a “vocation” to which she is called. It is a constitutive element in her being. It is part of her essence because it flows from the advocacy of God and is incarnated in her master,

Jesus Christ. This bold statement of advocacy of justice for the poor and oppressed is strongly stated in its theology found in chapter two.

In the Old Testament God reveals himself to us as the liberator of the oppressed and the defender of the poor, demanding from man faith in him and justice toward man’s neighbor. It is only in the observance of the duties of justice that God is truly recognized as the liberator of the oppressed. 65

This section continues with the Christ incarnating this advocacy role of God on behalf of the poor and powerless.

By his action and teaching Christ united in an indivisible way the relationship of man to God and the relationship of man to other men. Christ lived his life in the world as a total giving of himself to God for the salvation and liberation of men. In his preaching he proclaimed the fatherhood of God toward all men and the intervention of God’s justice on behalf of the needy and the oppressed (Lk. 6:21-23). In this way he identified himself with his ‘least brethren,” as he stated: “As you did it to the least of my brethren, you did it to me” (Matt 25:40). 66

The Church, formed and founded by her savior, is called to live this life in Christ, her redeemer. What God is doing for his people and continued in the person of Christ, is to take place now within the Church.

From the beginning the Church has lived and understood the death and resurrection of Christ as a call by God to conversion in the faith of Christ and in fraternal love, perfected in mutual help even to the point of a voluntary sharing of material goods. 67

65Ibid. Chapter II, p. 293.

66Ibid.

67Ibid.
Finally these themes of advocacy, solidarity and mutual support and care are to be expressed in the Christian life.

The Christian lives under the interior law of liberty, which is a permanent call to man to turn away from self-sufficiency to confidence in God and from concern for self to a sincere love of neighbor. Thus takes place his genuine liberation and the gift of himself for the freedom of others. . . . Christian love of neighbor and justice cannot be separated. For love implies an absolute demand for justice, namely a recognition of the dignity and rights of one’s neighbor. Justice attains its inner fullness only in love. Because every man is truly a visible image of the invisible God and a brother of Christ, the Christian finds in every man God himself and God’s absolute demand for justice and love.\textsuperscript{68}

A new area of the advocacy of the Church involves the Church herself. All those who serve the Church need to be treated with dignity and justice. She cannot preach to others about the needs of social justice for their workers, and ignore the same needs in her own institutions.

Those who serve the Church by their labor, including priests and religious, should receive a sufficient livelihood and enjoy that social security which is customary in their region. Lay people should be given fair wages and a system for promotion. We reiterate the recommendations that lay people should exercise more important functions with regard to Church property and should share in its administration.

We also urge that women should have their own share of responsibility and participation in the community life of society and likewise of the Church.\textsuperscript{69}

\textsuperscript{68}Ibid.

\textsuperscript{69}Ibid. p. 295.
Toward the end of the document a number of issues surface. One is that education is to be education for justice, i.e. to help the poor to come to some consciousness and awareness of manipulation and control that they are subjected to by government and the media.\footnote{Ibid. p. 296.} Another area covered by the synod is that advocacy is not just the domain of the Catholic Church alone. Other Christian denominations, other faiths, and philosophies are also involved and there is a need to cooperate with them.

Well aware of what has already been done in this field, together with the Second Vatican Ecumenical Council we very highly commend cooperation with our separated Christian brethren for the promotion of justice in the world, for bringing about development of peoples and for establishing peace. This cooperation concerns first and foremost activities for securing human dignity and man’s fundamental rights, especially the right to religious liberty. This is the source of our common efforts against discrimination on the grounds of differences of religion, race and color, culture, and the like. Collaboration extends also to the study of the teaching of the Gospel insofar as it is the source of inspiration for all Christian activity. . . . In the same spirit we likewise commend collaboration with all believers in God in the fostering of social justice, peace, freedom; indeed we commend collaboration also with those who, even though they do not recognize the Author of the World, nevertheless, in their esteem for human values, seek justice sincerely and by honorable means.\footnote{Ibid. p. 297-298.}

Finally, the synod speaks about the role of the United Nations as an important instrument and institution to be an advocate for the poor and oppressed. Its Declaration of Human Rights is supported by this synod and it is recommended that all governments
support this charter of civil and human liberties; and enact them for the benefit and well
being of their people.

Donal Dorr states that the document *Justice in the World* made a strong statement
of structural injustice and the West’s dominance of the third world. The document clearly
condemns the systems which bypass the poor and affirms their right to determine their
own destiny.\textsuperscript{72}

However, the above areas indicate that the Church is not alone in this world as an
advocate of human dignity and human rights, and that she, in her role of advocate, is to
stand in solidarity and support with others (personally and institutionally) in their role as
advocate.

In 1975 Pope Paul VI issued his third document dealing with Catholic social
thought. This was in response to the 1974 Synod of Bishops requesting the Pope himself
to speak on the issue of evangelization. In paragraph nine of *Evangelii Nuntiandi* the
Pontiff teaches what the central message of the Gospel (Good News) is:

\begin{quote}
Christ proclaims salvation, this great gift of God which is
liberation from everything that oppresses man but which is
above all liberation from sin and the Evil One, in the joy of
knowing God and being known by him, seeing him, and of
being given over to him.\textsuperscript{73}
\end{quote}

This central statement on what the message of Christianity is and what evangelists
are to proclaim is intimately and essentially tied with the liberation of humankind. God

\textsuperscript{72}Door, *Option for the Poor*, p.258.

\textsuperscript{73}*Evangelii Nuntiandi*, 9, O’Brien and Shannon (eds.), p. 306.
frees humanity from all that oppresses. Some of those oppressions are specifically listed in paragraph thirty one of the encyclical.

Peoples, as we know, engaged with all their energy in the effort and struggle to overcome everything which condemns them to remain on the margin of life: famine, chronic disease, illiteracy, poverty, injustices in international relations and especially in commercial exchanges, situations of economic and cultural neo-colonialism sometimes as cruel as the old political colonialism. The Church, as the Bishops repeated, has the duty to proclaim the liberation of millions of human beings, many of whom are her own children—the duty of assisting the birth of this liberation, of giving witness to it, of ensuring that it is complete. This is not foreign to evangelization.  

The above areas are specifically those areas in which the Church has expressed her advocacy from the time of Leo XIII forward. Pope Paul VI reinforces the teaching of the 1971 Synod of Bishops in connecting evangelization with the social issues facing the Church. The issues of evangelization and liberation are linked. This linkage is directly taught by the Holy Father in the next paragraph of Evangelii Nuntiandi.

Between evangelization and human advancement—development and liberation—there are in fact profound links. These include links of an anthropological order, because the man who is to be evangelized is not an abstract being but is subject to social and economic questions. They also include links in the theological order, since one cannot dissociate the plan of creation from the plan of Redemption. The latter plan touches the very concrete situations of injustice to be combated and of justice to be restored. They include links of the eminently evangelical order, which is that of charity: how in fact can one proclaim the new commandment without promoting in justice and in peace the true, authentic advancement of man? We

74Ibid. 30, p. 314.
ourselves have taken care to point this out, by recalling that it is impossible to accept ‘that in evangelization one could or should ignore the importance of the problems so much discussed today, concerning justice, liberation, development and peace in the world. This would be to forget the lesson which comes to us from the Gospel concerning love of our neighbor who is suffering and in need.’

However, Pope Paul VI teaches that evangelization and liberation from economic ills and political oppression are not co-extensive. Humanity needs to be liberated not just on one level. The Holy Father is very careful not to identify the vocation of the Church, which is liberation, with just temporal issues. It is clear he does include the ‘earthly’ needs of humanity in liberation, as seen above, but the Church has a deeper call to liberation which moves into the ‘spiritual’ sphere in the transcendent destiny of humanity.

Hence, when preaching liberation and associating herself with those who are working and suffering for it, the Church is certainly not willing to restrict her mission only to the religious field and dissociate herself from man’s temporal problems. Nevertheless she reaffirms the primacy of her spiritual vocation and refuses to replace the proclamation of the Kingdom by the proclamation of forms of human liberation; she even states that her contribution to liberation is incomplete if she neglects to proclaim salvation in Jesus Christ.

This linkage of social issues with evangelization impacts how the Church is to be advocate to the poor, marginal, and the oppressed in today’s world. Evangelization

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75Ibid. 31, p. 314.
76Ibid. 34, p.315.
shapes advocacy in that the advocate must be a witness by life and proclamation.\textsuperscript{77} When the Church stands on the side of the oppressed or discriminated there is to be something in her life style in the world that shows that she is an authentic and genuine witness of God’s liberating power. This is especially important in the specific areas of advocacy to the poor, the aged, the oppressed, and those areas of humanity that are vulnerable to control and manipulation.

Above all the Gospel must be proclaimed by witness. Take a Christian or a handful of Christians who, in the midst of their own community, show their capacity for understanding and acceptance, their sharing of life and destiny with other people, their solidarity with the efforts of all for whatever is noble and good. Let us suppose that, in addition, they radiate in an altogether simple and unaffected way their faith in values that go beyond current values, and their hope in something that is not seen and that one would not dare to imagine. Through this wordless witness these Christians stir up irresistible questions in the hearts of those who see how they live: Why are they like this? Why do they live in this way? What or who is it that inspires them? Why are they in our midst? Such a witness is already a silent proclamation of the Good News and a very powerful and effective one. Here we have an initial act of evangelization.\textsuperscript{78}

However, authentic life style, though foundational, is by itself inadequate in being an evangelizer. An evangelizer becomes an advocate when he or she speaks to the social and political issues in an articulate and relevant fashion. And not just to these issues but also to those areas which call the person to the kingdom of the Father.

\textsuperscript{77}Ibid. 21-22, p. 310-311.

\textsuperscript{78}Ibid. 21, p. 310.
Nevertheless this always remains insufficient, because even the finest witness will prove ineffective in the long run if it is not explained, justified—what Peter called always having ‘your answer ready for people who ask you the reason for the hope that you all have’—and made explicit by a clear and unequivocal proclamation of the Lord Jesus. The Good News proclaimed by the witness of life sooner or later has to be proclaimed by the word of life. There is no true evangelization if the name, the teaching, the life, the promises, the Kingdom, and the mystery of Jesus of Nazareth, the Son of God are not proclaimed.

The connection of advocacy and evangelization shapes advocacy in a role that is not just about a Church which is concerned about the disenfranchised of this world and wishes to help in a secondary way or by way of avocation. But advocacy is now proclaiming an authentic witness that God is a liberator and is liberating humanity. The Advocates (Son and Spirit -John 14: 16-31) are the first witnesses of the Father’s power. They not only proclaim and witness to the work of the Father’s liberation; but they also effect it in lives open to the Divine Presence. The Church, which is to be the witness and the sign of this Presence is, therefore, called to the same work. Advocacy, therefore, goes to the heart of the Church and of being a Christian. The linkage of the need to relieve the social, political, and economic ills of humanity, which the Church advocates, is part of the core message of Christianity. The Gospel brings advocacy into the center stage of Church life and mission.

Also, advocacy in the anthropology of Paul VI is to speak to more issues than just the temporal issues of humanity. To be an advocate is to witness to the transcendent

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Ibid. 22, p. 311.

Ibid. 6, p. 305; 7, p. 305-306; 27, p. 312-313; 75, p. 335-336.
nature of the human being. The full proclamation of the kingdom allows the advocate and the disenfranchised to be cognizant of the needs of both realities in human life, i.e. the realities of the economic and political sphere, as well as those which call us beyond this mortal frame. We are more than just a species of material needs, but we are not to ignore these needs as we follow our destiny with the Creator.

On March 15, 1979, Pope John Paul II, successor of Pope John Paul I, released the first encyclical of his pontificate, *Redemptor Hominis*. In this document he gives us his understanding of the human being, his anthropology. It is an anthropology founded upon the person, Jesus Christ, who is the redeemer of humanity and of each and every person. It is an anthropology which integrally involves the Church in the life and work of humanity. This understanding of the Church and humanity based on the redemption of Christ is expressed succinctly in the tenth paragraph of *Redemptor Hominis*.

Man cannot live without love. He remains a being that is incomprehensible for himself, his life is senseless, if love is not revealed to him, if he does not encounter love, if he does not experience it and make it his own, if he does not participate intimately in it. This, as has already been said, is why Christ the redeemer “fully reveals man to himself.” If we may use the expression, this is the human dimension of the mystery of the redemption. In this dimension man finds again the greatness, dignity and value that belong to his humanity. In the mystery of the redemption man becomes newly “expressed” and, in a way, is newly created. He is newly created! “There is neither Jew nor Greek, there is neither slave nor free, there is neither male nor female; for you are all one in Christ Jesus.” The man who wishes to understand himself thoroughly—and not just in accordance with immediate, partial, often superficial, and even illusory standards and measures of his being—he must with his unrest, uncertainty and even his weakness and sinfulness, with his life and death, draw near to Christ. He
must, so to speak, enter into him with all his own self, he must ‘appropriate’ and assimilate the whole of the reality of the incarnation and redemption in order to find himself. If this profound process takes place within him, he then bears fruit not only of adoration of God but also of deep wonder at himself. How precious must man be in the eyes of the Creator, if he ‘gained so great a redeemer,” and if God “gave his only Son” in order that man ‘should not perish but have eternal life.”

In reality, the name for that deep amazement at man’s worth and dignity is the Gospel, that is to say: the good news. It is also called Christianity. This amazement determines the church’s mission in the world and, perhaps even more so, ‘in the modern world.” This amazement, which is also a conviction and a certitude—at its deepest root it is the certainty of faith, but in a hidden and mysterious way it vivifies every aspect of authentic humanism—is closely connected with Christ. It also fixes Christ’s place—so to speak, his particular right of citizenship—in the history of man and mankind. Unceasingly contemplating the whole of Christ’s mystery, the church knows with all the certainty of faith that the redemption that took place through the cross has definitively restored his dignity to man and given back meaning to his life in the world, a meaning that was lost to a considerable extent because of sin. And for that reason, the redemption was accomplished in the paschal mystery, leading through the cross and death to resurrection.

The church’s fundamental function in every age and particularly in ours is to direct man’s gaze, to point the awareness and experience of the whole of humanity toward the mystery of God, to help all men to be familiar with the profundity of the redemption taking place in Christ Jesus. At the same time man’s deepest sphere is involved—we mean the sphere of human hearts, consciences and events.81

In the above quote we see the central category of understanding the human being is revealing love, experienced and made one’s own. This love is found in the person and the redemptive act of Jesus Christ and is present in each person of the human family. It is

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this action of Jesus Christ which allows all of us to see and be amazed at the great worth and dignity that each of us possess. This primarily spiritual view of humanity is not a spirituality which is opposed to the temporal or material aspect of humanity. But the action of Christ moves to the depths of our lives, into the ‘sphere of human hearts, consciences and events’.

In paragraph fourteen the Pope gives an impressive description of ‘every person’ who is to be the way of the Church. It is a description of the concrete historical person in many of our facets and relationships.

The church cannot abandon man, for his ‘destiny,’ that is to say his election, calling, birth and death, salvation or perdition, is so closely and unbreakably linked with Christ. We are speaking precisely of each man on this planet, this earth that the Creator gave to the first man, saying to the man and the woman: ‘Subdue it and have dominion.’ Each man in all the unrepeatable reality of what he is and what he does, of his intellect and will, of his conscience and heart. Man who in his reality has, because he is a ‘person,’” a history of his life that is his own and, most important, a history of his soul that is his own. Man who, in keeping with the openness of his spirit within and also with the many diverse needs of his body and his existence in time, writes this personal history of his through numerous bonds, contacts, situations and social structures linking him with other men, beginning to do so from the first moment of his existence on earth, from the moment of his conception and birth. Man in the full truth of his community and social being—in the sphere of his own family, in the sphere of society and very diverse contexts, in the sphere of his own nation or people (perhaps still only that of his clan or tribe), and in the sphere of the whole of mankind—this man is the primary route that the church must travel in fulfilling her mission: He is the primary and fundamental way for the church, the way traced out by Christ himself, the way that
leads invariably through the mystery of the incarnation and the redemption.\textsuperscript{82}

At the end of this paragraph the Pontiff gives what he sees as the job description for the Church. In the following quote we see that the work of the Church which the Pope teaches throughout this whole document is the work of being an advocate.

\begin{quote}
Since this man is the way for the church, the way for her daily life and experience, for her mission and toil, the church of today must be aware in an always new manner of man’s ‘situation.’ That means that she must be aware of his possibilities, which keep returning to their proper bearings and thus revealing themselves. She must likewise be aware of the threats to man and of all that seems to oppose the endeavor ‘to make human life ever more human’ and make every element of his life correspond to man’s true dignity—in a word, she must be aware of all that is opposed to that process.\textsuperscript{83}
\end{quote}

In this encyclical which deals with the profound dignity of the human being founded in the person of Jesus Christ Pope John Paul II speaks about humanity caught in the many difficult social issues of the modern world, about his concern for the poor, and the establishing of clear rights for every person. The United Nations’ Declaration of Human Rights is especially spotlighted and affirmed as an important document for the church, for governments, and for all societies which deal with important and core areas of human life.\textsuperscript{84}

\textsuperscript{82}Ibid. 14, p.633.

\textsuperscript{83}Ibid. 14, p.634.

\textsuperscript{84}Ibid. 16-17, pp.635-637.
With his anthropology clearly stated in *Redemptor Hominis* Pope John Paul II in 1981 published another encyclical honoring the 90th Anniversary of *Rerum Novarum*. This social encyclical, entitled *Laborem Exercens*, is an encyclical which revisits the subject of the “worker” which was the main concern of Pope Leo XIII in the first modern encyclical in the Catholic Church. In this encyclical Pope John Paul II presents an in depth analysis of work and its history in modern times.

The Roman Pontiff begins the encyclical by stating that work is a fundamental part or aspect of human life. It impacts the human being and human life in a fundamental and a central way. This initial premise of the encyclical can be seen in the very beginning of *Laborem Exercens*.

Only man is capable of work, and only man works, at the same time by work occupying his existence on earth. Thus work bears a particular mark of man and of humanity, the mark of a person operating within a community of persons. And this mark decides its interior characteristics; in a sense it constitutes its very nature.  

For the Pontiff work is a fundamental question that needs to be reviewed and examined primarily because it has such a fundamental impact on our humanity. Since it goes to the heart of humanity, it is then central to the social question. For the Pope work and its challenges and problems are basic to the Church’s social thought.

In paragraph number three there is stated the intention of the encyclical and the Pontiff’s view of Catholic social thought to this date.

While in the present document we return to this question once more—without however any intention of touching on

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all the topics that concern it—this is not merely in order to gather together and repeat what is already contained in the Church’s teaching. It is rather in order to highlight—perhaps more than has been done before—the fact that human work is a key, probably the essential key, to the whole social question, if we try to see that question really from the point of view of man’s good. And if the solution—or rather the gradual solution—of the social question, which keeps coming up and becomes ever more complex, must be sought in the direction of ‘making life more human,’” then the key, namely human work, acquires fundamental and decisive importance.  

With the centrality of work in the social question as the stated premise of the encyclical, John Paul II moves to establish the encyclical’s anthropology. The first chapter of the book of Genesis is where the foundation of his thought is established (Genesis 1: 26-28).

In this short verse of scripture the Pontiff bases his understanding of the human being. The first understanding is that the human being is in the image and likeness of God, a theme which the Pontiff will return to later in the encyclical. Second, the human being is to subdue the earth. The “subduing of the earth by humanity” is work. It is our job and it is in part our vocation.

When man, who had been created “in the image of God...male and female,” hears the words: “Be fruitful and multiply, and fill the earth and subdue it,” even though these words do not refer directly and explicitly to work, beyond any doubt they indirectly indicate it as an activity for man to carry out in the world. Indeed, they show its very deepest essence. Man is the image of God partly through the mandate received from his creator to subdue, to dominate, the earth. In carrying out this mandate, man,
every human being, reflects the very action of the creator of the universe.\footnote{Ibid. 4, p. 356.}

For Pope John Paul II work is a true universal for the human species that transcends time and culture. Human beings are always to be at their work with the “ordering of their Creator.”

As man, through his work, becomes more and more the master of the earth, and as he confirms his dominion over the visible world, again through his work, he nevertheless remains in every case and at every phase of this process within the Creator’s original ordering. And this ordering remains necessarily and indissolubly linked with the fact that man was created, as male and female, “in the image of God.” This process is, at the same time, universal: It embraces all human beings, every generation, every phase of economic and cultural development, and at the same time it is a process that takes place within each human being, in each conscious human subject. Each and every individual is at the same time embraced by it. Each and every individual, to the proper extent and in an incalculable number of ways, takes part in the giant process whereby man “subdues the earth” through his work.\footnote{Ibid. 4, p. 356-357}

This statement of divine command to work is to all peoples, societies and individuals. It is part of Pope John Paul II’s understanding of who and what the human being is. We, as workers, are co-workers with the activity of God. Thus, human destiny has an earthliness to it. Human beings become human by “subduing the earth”. This will be further developed as the encyclical goes on. Donald Dorr in his work, \textit{Option for the Poor}, makes an interesting observation about the Holy Father’s view of humanity which is quite radical. Previous theology has accepted the Greek view of humanity as a creature
which is wise, homo sapiens. This view of humanity was the view of Plato and Aristotle and the view of Christian theologians down to the present time with few exceptions.

With the rise of Marxism in modern thought, and questions of industrialization of the planet, man the worker, homo faber, begins to emerge. The Holy Father, a man of this century, understands the powerful impact of the industrial and technological revolutions of the modern world. Most advancements of the modern age are not brought about in the leisure time of the rich and titled, but by the “work” of humanity. Thus, Pope John Paul II goes back to the stories of humanity’s origin and finds a resonance there for a modern anthropology for an industrial and technical world. The human being is called to work, to make and to create. In this activity we mirror and image the creator; and are transformed in the work of being co-creators.

In the Pope’s analysis of work he divides it up into the objective side of work and the subjective. The objective view of work for the Pontiff is the “what is done” aspect of the activity. If this is the main or only concern of the business or corporation, then labor will tend to be treated as a thing, with the less skilled workers being discounted and easily discarded. The Pope states that one’s dignity is not to be measured by the task or work one does, or the product one produces. The subjective side, the worker, personalizes the activity, it is one who is in the image of the Creator who is doing the task. If his or her task requires less talent or creativity, that person is not made less nor demeaned. Each brings something of the Creator to the “work bench” and as the material is transformed by the work, so is the worker. The worker, all workers, have an inestimable dignity from the

89 Dorr, Option For The Poor pp. 308-309.
Creator, and so there is a base line of worth and dignity for any and all workers which is not to be transgressed. The priority of the subjective aspect over the objective is to be maintained. This allows the workers their dignity, and does not allow the thingness (objective) of the work to be a benchmark of human activity. Therefore, human workers are not chattel or merchandise to be used up and discarded which unrestricted capital would have, neither are the workers material entities to be satisfied by simply material rewards which pure socialism would advocate. For the Pontiff either one of these systems are unsuitable in that they do not protect the inherent dignity of humanity which is founded in Gen. 1, 26-28, i.e. being in God’s image and likeness.\(^{90}\)

\[\ldots\]the basis for determining the value of human work is not primarily the kind of work being done, but the fact that the one who is doing it is a person. The sources of the dignity of work are to be sought primarily in the subjective dimension, not in the objective one.\(\ldots\)

\[\ldots\]However true it may be that man is destined for work and called to it, in the first place work is ‘for man’ and not man ‘for work.’ Through this conclusion one rightly comes to recognize the pre-eminence of the subjective meaning of work over the objective one. Given this way of understanding things and presupposing that different sorts of work that people do can have greater or lesser objective value, let us try nevertheless to show that each sort is judged above all by the measure of the dignity of the subject of work, that is to say, the person, the individual who carries it out.\(^{91}\)

Because modern capitalism is in many ways a threat to the worker, because of the presence of greed, the position and the dignity of the worker is threatened. When liberal

\(^{90}\)Laborem Exercens, 6-7, 13, O’Brien and Shannon, pp. 358-359 and 368-370 respectively.

\(^{91}\)Ibid. 6, p. 359.
capitalism was accepted in the nineteenth century, the workers reacted in solidarity to protect themselves and their dignity as human beings. This reaction in solidarity is justifiable because they are only protecting their persons.

The call to solidarity and common action addressed to the workers—especially to those engaged in narrowly specialized, monotonous, and depersonalized work in industrial plants, when the machine tends to dominate man—was important and eloquent from the point of view of social ethics. It was the reaction against the degradation of man as the subject of work and against the unheard of accompanying exploitation in the field of wages, working conditions and social security for the worker. This reaction united the working world in a community marked by great solidarity.92

The protection of the worker from exploitation by the formation of workers in solidarity or unions is extremely important to Pope John Paul II. Without this protection work, which should allow us to transform the world and to transform ourselves, begins to be destructive and damaging to the worker. Work goes to the root of who we are, and therefore it must never degrade or destroy, but rather transform. The presence of solidarity of workers in the work place is essential for the transformation of humanity.

Work is a good thing for man—a good thing for his humanity—because through work man not only transforms nature, adapting it to his own needs, but he also achieves fulfillment as a human being and indeed in a sense becomes ‘more a human being.’93

92Ibid. 8, p. 361.

93Ibid. 9, p. 364.
Work is not only a right for Pope John II but is also an obligation. It is a duty on the part of each human being. It is not something that we are to refuse, we are commanded by the Creator and by our own nature to accept it as our destiny.

Man must work both because the Creator has commanded it and because of his own humanity, which requires work in order to be maintained and developed. Man must work out of regard for others, especially his own family, but also for the society he belongs to, the country of which he is a child and the whole human family of which he is a member, since he is the heir to the work of generations and at the same time a sharer in building the future of those who will come after him in the succession of history. All this constitutes the moral obligation of work, understood in its wide sense.⁹⁴

Therefore this is a duty which we are not free to reject without moral consequences, especially since this activity is fundamental to the transformation of individuals, family, society, and humanity itself. Therefore, not only does one have the right to work; one has the obligation to work in order that humanity may continually move forward, building on the successive transformations of the past.

In this encyclical the Pontiff also shows insight into the difficulties faced by small businesses, who have a difficult time surviving in the world of transnational corporations. Here the Pontiff expresses the Church’s advocacy for the small business. These businesses, when in competition with large companies and corporations, are unable to pay wages which strict social justice would say that the owner should. If the owner would do so, the business would soon go into bankruptcy and cease to exist. For the Pontiff the large transnational corporations become what he calls the “indirect employers” because

⁹⁴Ibid. 16, p. 374.
they are able to sell at a lower price. For the small businesses to compete, these businesses are unable to pay a living wage. Because of this the large transnational corporations severely pressure small businesses and are integral to the continuance of oppression in that particular area. This aspect of being an “indirect employer” applies to governments and unions, as well, when they practice protectionist policies, especially in developed countries. These policies do not allow free trade to take place, and damage the cause of the oppressed worker in the third world.95

This Pope speaks also for the right of the workers to confront their oppressors. He, more than his predecessors, supports union and union activities, which are involved in the struggles for justice. Pope John Paul II does not accept the class conflict of Marxism, which in this philosophy is seen as inevitable in social life. For the Pope unions are to be involved in the struggle not against another class or group, but for justice and the obtaining of the just good of all, which will not destroy or eliminate the other but will unite all in solidarity. This strong statement of the right of opposition by workers in their struggle for a just life is important not just for its strength, but also because it is a clear allowance of opposition by workers outside of the Marxist theory of class conflict.96

Catholic Social teaching does not hold that unions are no more than a reflection of the “class” structure of society and that they are a mouthpiece for a class struggle which inevitably governs social life. They are indeed a mouthpiece for the struggle for social justice, for the just rights of working people in accordance with their individual professions. However, this struggle should be seen as a

95Ibid. 17, p. 375-376.
96Ibid. 20, p. 380-382.
normal endeavor “for” the just good: In the present case, for the good which corresponds to the needs and merits of working people associated by profession; but it is not a struggle “against” others. Even if in controversial questions the struggle takes on a character of opposition toward others, this is because it aims at the good of social justice, not for the sake of “struggle” or in order to eliminate the opponent. It is characteristic of work that it first and foremost unites people.97

When looking at this encyclical, the question one might ask is: why did the Pope write an encyclical on the subject of work? One answer would seem to be that it is because work is the dynamic activity of the human being which transforms the human being. The anthropology of the Church traditionally was one which tended to value the virtue of reflective wisdom. The Pope, in reading the signs of the times, views humanity more in terms of action. The human person is one who transforms the environment and interacts creatively with creation of which we are stewards. This transforming and creating is done by work. It energizes our being, which is in the image of God, to allow Godliness to be incarnated into humanity and the world.

Work also speaks to our dignity of having some independence and self worth. By our work we care for ourselves and our family as we contribute. This is to be the normal state of affairs. However, when one is without work, there is no transformation or creativity. There is no active engagement of the person. Obviously, there is no care of the self or of the family; and both become destitute and dependent on the charity of others. This condition creates a perception of worthlessness and failure which all too often becomes part of the person’s image of self. Instead of being created in the image of the

97Ibid. 20, p. 380.
Creator, the person is created in the image of failure. The lack of work not only leads to the physical state of poverty but the psychological state of inadequacy.

However, the Pope sees that the lack of work is not the only means of human degradation, but sees human degradation in the disrespect of the worker in the workplace. This often comes about because one is worked to the point of physical exhaustion; or because one has to work in unsafe conditions, or because there is no respect of the worker's personhood, e.g. discrimination against women or the disabled.

Therefore, for the Holy Father work is that fundamental aspect of humanity which we need to ennoble and transform us. It allows us to participate with our Creator in the ongoing work of creation. To deprive a human person of it, or to abuse a person with it degrades one not only temporally by destruction of health and poverty, but damages the innate creative talent of the human person to act in God's image. When one is degraded by lack of work or by the abuse of work one is not able to incarnate activity to form and fashion his spiritual destiny in this world and eternity.

It is in this analysis of work, so central to humanity, that the Church gains an ever deeper insight on how she is to be an advocate to the poor and the marginal. It is not just enough to be on their side or to be their cheerleaders, but the work of the Church is to help the poor and the oppressed help themselves. Advocacy is to help the weak and powerless to be free and independent. For Pope John Paul II work is an essential ingredient for this transformation to happen. Without work humanity continues to be impaired by the conditions of poverty and oppression.
In 1987 Pope John Paul II authored his second social encyclical entitled *Sollicitudo Rei Socialis*. It was written on the anniversary of Paul VI's work, *Populorum Progressio*, and paid homage to Paul VI's insight on human development and reinforces this encyclical in Catholic social thought. The encyclical reviews and speaks to the problems faced by development and how these problems can be overcome.

For Pope John Paul II the major obstacle that human development faces is personal sin which in turn develops into ‘structures of sin’.

If the present situation can be attributed to difficulties of various kinds, it is not out of place to speak of ‘structures of sin,” which, as I stated in my apostolic exhortation *Reconciliatio Et Paenitentia*, are rooted in personal sin, and thus always linked to the concrete acts of individuals who introduce these structures, consolidate them and make them difficult to remove. And thus they grow stronger, spread, and become the source of other sins, and so influence people’s behavior.  

Pope John Paul II points to particular attitudes that are typical of the type of sinfulness that are opposed to development. These become centralized in the all consuming desire for profit and the thirst for power.

Obviously, not only individuals fall victim to this double attitude of sin; nations and blocs can do so too. And this favors even more the introduction of the “structures of sin” of which I have spoken. If certain forms of modern ‘Imperialism” were considered in the light of these moral criteria, we would see that hidden behind certain decisions,

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98 *Sollicitudo Rei Socialis*, 36, O’Brien and Shannon, p. 419.

99 Ibid. 37, p. 420.
apparently inspired only by economics, or politics, are real forms of idolatry: of money, ideology, class, technology.\textsuperscript{100}

The way out of the structures of sin is to practice what the Pope calls the virtue of solidarity. In paragraphs thirty eight and thirty nine of \textit{Sollicitudo Rei Socialis} Pope John Paul II gives his teaching on this virtue. Solidarity is the virtue of charity\textsuperscript{101} which has social dimensions. It is based on the understanding of the interdependence of people and nations. It calls for the concern of one group for another without exploitation or manipulation.

The exercise of solidarity within each society is valid when its members recognize one another as persons. Those who are more influential, because they have a greater share of goods and common services, should feel responsible for the weaker and be ready to share with them all they possess. Those who are weaker, for their part, in the same spirit of solidarity, should not adopt a purely passive attitude or one that is destructive of the social fabric, but, while claiming their legitimate rights, should do what they can for the good of all. The intermediate groups, in their turn, should not selfishly insist on their particular interests, but respect the interests of others.\textsuperscript{102}

Since the encyclical deals with the concepts of development of Pope Paul VI, Pope John Paul II places his concept of solidarity at the service of human development.

For this Pope, solidarity is the path to peace and to development.

In this way, the solidarity which we propose is the path to peace and at the same time to development. For world peace is inconceivable unless the world’s leaders come to

\textsuperscript{100}Ibid.

\textsuperscript{101}Ibid. 40, p. 423.

\textsuperscript{102}Ibid. 39, p. 422.
recognize that interdependence in itself demands the abandonment of the politics of blocs, the sacrifice of all forms of economic, military, or political imperialism, and the transformation of mutual distrust into collaboration. This is precisely the act proper to solidarity among individuals and nations.  

_Sollicitudo Rei Socialis_ is valuable to our dealing with the question of advocacy of the Church with the poor and oppressed. Solidarity shows us how we are to be advocates. The Church is to possess this virtue of social love or charity in which she not only helps the poor and powerless, but she stands with them. She is in solidarity with them.

Positive signs in the contemporary world are the growing awareness of the solidarity of the poor among themselves, their efforts to support one another, and their public demonstrations on the social scene which, without recourse to violence, present their own needs and rights in the face of the inefficiency or corruption of the public authorities. By virtue of her own evangelical duty the Church feels called to take her stand beside the poor, to discern the justice of their requests, and to help satisfy them, without losing sight of the good of groups in the context of the common good.  

Finally, the Pope speaks out why the Church can be a proper advocate in the world. It is because she is able through long reflection, guided by the principles of the Gospel, to bring a unique wisdom to individuals and society.

The Church’s social doctrine is not a “third way” between liberal capitalism and Marxist collectivism, nor even a possible alternative to other solutions less radically opposed to one another: rather, it constitutes a category of its own.

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103_Ibid. 39, p. 423.

104_Ibid. 39, p. 422.
Nor is it an ideology, but rather the accurate formulation of the results of a careful reflection on the complex realities of human existence, in society and in the international order, in the light of faith and of the Church’s tradition. Its main aim is to interpret these realities, determining their conformity with or divergence from the lines of the Gospel teaching on man and his vocation, a vocation which is at once earthly and transcendent; its aim is thus to guide Christian behavior. It therefore belongs to the field, not of ideology, but of theology and particularly of moral theology.\textsuperscript{105}

On May 1, 1991, Pope John Paul II wrote a third encyclical on Catholic social thought for the Church. This encyclical, written in commemoration of the 100\textsuperscript{th} Anniversary of \textit{Rerum Novarum} of Pope Leo XIII, is entitled \textit{Centesimus Annus}. It is a review of the major themes of the Church’s social doctrine over the past 100 years beginning with the foundational work of Pope Leo XIII. Thus, the document gives a detailed history and analysis of the problems of socialism and communism on one hand and liberal capitalism on the other. Within the critique of these two great errors of the modern age, the Holy Father speaks of the central role of the Church to human society. It is to witness to, to be an advocate of, and to stand in solidarity with the human person. For the Pope the Church’s anthropology of the human being is the guiding light of all its social statements. It is an anthropology formed out of its understanding of revelation. It is more than a philosophic view, it is theological.

Christian anthropology therefore is really a chapter of theology, and for this reason, the Church’s social doctrine, by its concern for man and by its interest in him and in the way he conducts himself in the world, ‘belongs to the field...of theology and particularly of moral theology.’ The

\textsuperscript{105}Ibid. 41, p. 425.
theological dimension is needed both for interpreting and solving present-day problems of human society. It is worth noting that this is true in contrast both to the ‘atheistic’ solution, which deprives man of one of his basic dimensions, namely the spiritual one, and to permissive and consumerist solutions, which under various pretexts seek to convince man that he is free from every law and from God himself, thus imprisoning him within a selfishness which ultimately harms both him and others.\textsuperscript{106}

It is from her tradition the Church understands that her role is to be an advocate for the dignity and importance of human beings.

Her sole purpose has been care and responsibility for man, who has been entrusted to her by Christ himself: for this man, whom, as the Second Vatican Council recalls, is the only creature on earth which God willed for its own sake, and for which God has his plan, that is, a share in eternal salvation. We are not dealing here with man in the ‘abstract,’ but with the real, ‘concrete,’ ‘historical’ man. We are dealing with each individual, since each one is included in the mystery of Redemption, and through this mystery Christ has united himself with each one for ever. It follows that the Church cannot abandon man, and that ‘this man is the primary route that the Church must travel in fulfilling her mission...the way traced out by Christ himself, the way that leads invariably through the mystery of the incarnation and the redemption.’

This, and this alone, is the principle which inspires the Church’s social doctrine. The Church has gradually developed that doctrine in a systematic way, above all in the century that has followed the date we are commemorating, precisely because the horizon of the Church’s whole wealth of doctrine is man in his concrete reality as sinful and righteous.\textsuperscript{107}

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Ibid. 53, p. 479.
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The Church does not make particular judgments on what type of constitutional expression a people should have or what particular concrete economic theories they should embrace. Rather, she is guided by the principles of her tradition and revelation. These constitute the core gift of the Church to society and are guidelines of her critique of any particular social, political or economic expression. They are central in her understanding and teaching on the dignity of the human being, in the family, culture, and nation.

The Church respects the legitimate autonomy of the democratic order and is not entitled to express preferences for this or that institutional or constitutional solution. Her contribution to the political order is precisely her vision of the dignity of the person revealed in all its fullness in the mystery of the Incarnate Word.\(^{108}\)

When one reads the encyclical, one is impressed with the number of references to the dignity and nature of the human being. In regard to the question of advocacy and the Church, Pope John Paul II gives a clear affirmative. In the last section (section 6) the human being is the way of Church. The human being is worthy of respect by the fact of who he or she is. Humanity stands in the image of God. We are worthy by who we are, not by our class, race, ethnicity, sex, skills, age, knowledge or any other condition or lack of it. *Centesimus Annus* teaches that the Church has a unique role of advocate in that she is able to bring to concrete situations and to particular times the witness of who the human person is and the person’s inestimable worth before others and before God. In the

\(^{108}\)Ibid. 47, p. 475.
Pope’s analysis of the year 1989 he sets this out quite clearly as he speaks of the turmoil and problems of the ‘80’s.

An important, even decisive, contribution was made by the Church’s commitment to defend and promote human rights. In situations strongly influenced by ideology, in which polarization obscured the awareness of a human dignity common to all, the Church affirmed clearly and forcefully that every individual—whatever his or her personal convictions—bears the image of God and therefore deserves respect. Often, the vast majority of people identified themselves with this kind of affirmation, and this led to a search for forms of protest and for political solutions more respectful of the dignity of the person.\textsuperscript{109}

Looking over these social teachings of the Popes, we learn that advocacy goes to the heart of being a Christian. Pope Paul VI teaches us that if we are to stand beside a sister or brother in their need and suffering we are to have a vision of what they can be. The Church’s spiritual component in human development gives a vision of dignity and worth which flows from that transcendent source which we call God. This dignity and worth are never the gifts of any human institution or government. The Church teaches that the Christian message, evangelization, is one of liberation from all that oppresses humanity. For Pope John Paul II it is sin and its structures that oppress the human heart. Solidarity of people and their institutions are the tools which can bring about liberation for humanity.

The Church is not only an advocate of liberation, but also of transformation. This transformation is found in work. Work teaches that we incarnate in our tasks the material of creation and in doing so we transform ourselves. Once again, we do this work

\textsuperscript{109}Ibid. 22, p. 455.
in solidarity with our brothers and sisters. Solidarity overcomes that which oppresses the human heart—the presence of sin and the structures that sin develops. Solidarity brings liberation to humanity in its unified charity; and is the apt instrument which binds us to our work of transformation. Solidarity is humans living together in work, family, and social life. It is humanity, as this present Pontiff teaches, which is the way of the Church and that humanity is conformed by nature and redemption into the very image and likeness of God.

In summary, then, the Church has taught over the past one hundred years, that she and her children are, in imitation of her God, to be advocates to those areas of human life that are most at risk, most vulnerable to dehumanization and destruction. She clearly defends those who suffer oppression of whatever kind—race, sex, religion, ethnicity or class. Can this advocacy be applied to those who also have brought oppression on others? In being oppressors is not their humanity at risk and vulnerable? In their acts of license do they not need liberation from the impulses of their criminality? As we conclude this chapter, which reviews generally the social teachings of the Popes, we can say that the past hundred years have witnessed the openness of the Church to being the hope and compassion of Christ to the poor, the powerless, and the marginal in whatever frame humanity finds itself. Thus, it is reasonable to state that the Church in its openness to suffering humanity, is open to suffering humanity in the prison system. If sin and its structures are oppressors of humanity, perhaps its main oppressors, it is fitting that the teachings of the Popes on human development, liberation, solidarity, and work be applied to those who have been caught up in sin and its structures, namely convicted felons. This
is not to judge the human heart but to note that objectively this section of humanity has
perpetrated a large amount of evil upon their brothers and sisters. If work is a way of
transformation, would not the work of healing and reconciliation be a work of
transformation of the first order, a work which includes not just the felons or correctional
workers, but the whole institution. It is the work of solidarity for the whole correctional
system.

Therefore, it is important to note that in its call to advocacy the Church’s teaching
is balanced. The work of advocacy does not just challenge one aspect of a system. The
whole system is included in the call to advocacy. This is seen in the areas of economics
and the great social problems of this age. The profitable use of capital, State involvement
in social questions of society, movements of social reform e.g. unions, are respected and
many times openly supported. Systems of government and economics are to be reformed
to the benefit of the individual and society. Thus, while restricted capital and unions are
acceptable, laissez faire capitalism and socialism are clearly rejected for these are
philosophies which the Church deems disrespectful of the dignity and worth of the human
being. But the Church never just supports one aspect of the social problem to the
exclusion of other aspects. She does not just support workers to the exclusion of the role
and rights of managers or government or third world interests. She, of course, focuses on
those areas where oppression and discrimination take place, and sees this as the point
where she is to be an advocate. The teaching of solidarity, especially by this present
Pontiff, allows the Church to express a balance to the question. The whole is involved in
the work of transformation, and the work effects the transformation of the whole. This might be a worthwhile insight for the correctional system as well.

In further review of the tradition of papal teaching it is reasonable to assume that her anthropology of human dignity extends to those who have done serious damage, sometimes unspeakable damage, to individuals and society. Even though they are felons, they are human, and being human they are worthy of our care, our support and respect. Whether this is explicitly taught by the Church will be dealt with in Chapter Two.
CHAPTER TWO

PRISON ADVOCACY AND THE AMERICAN BISHOPS

In chapter one of this dissertation, I demonstrated that the Catholic Church does indeed have an advocacy role to the poor and the marginal. It is an advocacy which is based on our tradition, that it is God who is the Prime Advocate, and that the role of the Church as advocate is taken from God’s revealing and teaching presence. Church leaders are to listen and to faithfully transmit to the faithful and to the world at large, the compassion of God for those who have been disenfranchised from society.

In the second chapter we will be dealing with the question of whether or not the Church sees the prison system as part of her advocacy role to the poor and powerless. Is it included in her advocacy, and if so just what is involved in this role? What values and principles are involved?

In reviewing this question I will restrict myself to episcopal statements and letters addressed (whether individually or collectively) to prison concerns in the United States of America over the past thirty years, starting in 1971. The reason for the limit of the past thirty years is that the dissertation is dealing with the role in the modern prison system (modern prisons are characterized by formal departments with clear policies of mission and clear areas of responsibility). This restriction allows the review to be centered on the last three decades and thus ensures the statements do indeed deal with the modern system of incarceration. The reason for limiting myself to the United States of America is that it would be an unending task to deal with the prison systems world wide. The United States has numerous developed prison systems which are modern. Also, the United States has
penitentiary traditions which extend back into the early 19th century when the penitentiary system began. Finally, the limit of episcopal statements or letters allows us to hear what the “apostolic voice” of the Church is saying in regard to the prisons.

In dealing with the question of prisons the topic of capital punishment will also be dealt with in this question of advocacy. The reason for the inclusion of this topic is first, death row inmates are incarcerated in prison and therefore a part of the prison system. Second, it provides an opportunity to see what limits are imposed on advocacy in caring for people who commit particularly heinous crimes. Does capital punishment answer the demands of justice appropriately? Do mercy and compassion play a part in the question? And what is the position and role of advocacy by the Church in this vital area?

The source for the documents that I will use in this chapter will be Origins, the CNS documentary service. The method of review of episcopal statements will be chronological. I will examine each year for any statements, letters, or documents that deal with the prison system. At the end of each year I will give an analysis and summary of that year in terms of the Church’s advocacy. Finally, the chapter will end with a general summation of Church statements and conclusion on her role of advocacy in regard to the modern prison system.

In September 1971, an event took place in the prison system which changed the course of this system for the next decade. At a state prison in Attica, N.Y., the prisoners rioted with the result of the prison being taken over by the inmate population, and the retaking was at the cost of many human lives, both inmates and hostages. This story focused the American people on the prison system at that time and shed a clear light on
the many injustices, oppressions and inhumanities that existed not only in Attica but in prisons throughout the country. Paul W. Keve in his book, Prisons and the American Conscience, states the following about Attica.

During this time one particular event incited challenges to the Marion operation and to the Bureau of Prisons generally—the disastrous riot at New York’s Attica prison in September 1971. Because it caused so many deaths and involved so much property damage, because it revealed so nakedly the underlying causes of the rage that fueled it, and because for four days it was front-page news that gripped the country’s attention, Attica profoundly changed the general atmosphere in which prisons were administered. Other prisoners reacted, sometimes overtly, like the women at Alderson who rioted only a few days after the Attica uprising. But more important, the public became aware of prison problems, and prisoners were stimulated to initiate more challenges to the corrections systems.

Until the 1950s, the country’s prisoners essentially had no access to the courts, for there was a general attitude that the courts should keep a hands off stance in respect to prison operations. The last important expression of this so-called hands-off doctrine regarding federal prisons came in 1954, when a Leavenworth prisoner sued the Bureau to allow him to deal directly with the U.S. Patent Office. The Tenth Circuit Court of Appeals flatly asserted that “courts are without power to . . . interfere with ordinary prison rules or regulations.”

However, even as that case was decided, other prison cases began to receive more sympathetic attention; and by the time of Attica, the courts accepted that they did indeed have both the power and the responsibility to interfere where a prisoner could claim to be unfairly treated. Before Attica, a steady trickle of prisoner cases came to the courts; after Attica, the trickle became a flood.¹

As the above quote indicates the riot at Attica captured the attention of the American people, its government and its courts. We will see in our review of episcopal statements that it also got the attention of the Church.

As we review the episcopal statements from the year 1971 to 2001, the reader will see that this involves a fairly large amount of material. Perhaps it would be of help if a few major works could be indicated here to help put this material in some perspective. There are five major documents over this thirty year period of time. The first is a national pastoral issued by the American bishops, entitled “Rebuilding Human Lives,” issued in November 12-16, 1973. This pastoral addresses practical concerns where the Church can address her role as advocate. This pastoral can be found in the chapter under Origins 1973. There is a second pastoral which addresses the prisons which was issued in November 15, 2000, entitled “Responsibility, Rehabilitation and Restoration: A Catholic Perspective on Crime and Criminal Justice.” This pastoral is more theological in nature and addresses the questions of restitution, justice and rehabilitation, using sources from the Catholic tradition to direct the role of advocacy of the Church (found under Origins 2000). The third document is a pastoral on the death penalty, entitled simply “A Statement on Capital Punishment” which is a statement opposing the re-enactment of the death penalty by many of the states. The document, issued in November 10-13, 1980, addresses the inappropriateness of this penalty in modern society from different perspectives (Origins 1980). Finally, there are two documents given by Pope John Paul II which are worthy of note. The first is “Evangelium Vitae” issued March 25, 1995. In this encyclical the pontiff declares the death penalty to be an inappropriate
penalty for criminal acts in countries which have a modern prison system (Origins 1995).

This statement against the death penalty was followed up in the final edition of the
Catechism of the Catholic Church, (September 8. 1997) using the same wording as the
above encyclical (Origins 1997). These statements by the pope vindicate the long
struggle of the American bishops against the imposition of the death penalty and allow
their pastoral position to have papal backing. It is hoped that when the reader comes
across the above mentioned documents they will put the full range of episcopal
statements in proper perspective.

ORIGINS 1971:

In the late September issue of Origins (September 30, 1971) Roman Catholic
Bishop Joseph C. Hogan, Bishop of Rochester, N.Y. and Episcopal Bishop Robert R.
Stears, Bishop of the Episcopal Diocese of Rochester issued a joint pastoral letter to their
people on the riots that took place in Attica. Origins titled the letter in their issue “Attica:
‘Have the Churches Been Asleep?’” 2

The Bishops’ letter opens with a clear statement that the Churches indeed have
been asleep and conditions in our penal system have been let go, becoming institutions of
injustice, oppression and inhumanity.

The anguish and death that stand as the result of this
experience has finally forced us, as pastors of a Christian
people, to speak out on our penal system in this state. For
years many, including ourselves, have been blind to the full
dimensions of the problems in our system of justice—or we

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2Bishop Joseph L. Hogan and Episcopal Bishop Robert R. Stears, “Attica: Have The
Churches Been Asleep?,” Origins 1, 14 (September 30, 1971), 239-41.
have been unwilling to face them. Now, we can no longer avoid challenging these conditions.

We wish to convey our profound grief and offer our aroused sympathies to the families who have lost a man they loved. Waiting in the long silence, the families of both inmates and hostages have had to bear a heavy burden. With all too many finally having their worst fears confirmed.\(^3\) [Sic]

In review of this short pastoral letter by the two Bishops a number of important areas were mentioned.

1. Inmates, as well as all humans, have a basic human dignity that needs to be respected.

2. It was not just the inmates who were victims, but correctional officers as well, who have to work in a callous system.

3. The problems are more often than not the system. The problems of Attica and prisons in general come from the continual redoing of budgets for the institutions which house criminals and the emotionally disabled, and mentally retarded.

4. The letter states that the purpose of order in the institution is to allow rehabilitation to take place. The institution is to address the humanity of the inmates respectfully in terms of supporting and nurturing that humanity.\(^4\)

Finally in the letter the bishops call the Church to advocacy.

The roots of chaos in our penal system lie buried deep within our society itself. Shouting in anger, terror and fear, accusations and polarization surround us. For those who follow Christ, human dignity and mutual respect cannot

\(^3\)Ibid., 239.

\(^4\)Ibid.
become the casualties of our emotions in this event. We need to be a people who, in our faithfulness are ready to pray, to confess, to forgive, to seek justice now. We need to be a people whose very lives are a sign of good news to the poor and of freedom to the oppressed.

And now, in this day, we quite clearly need to be a people who will sustain a strong effect to insure a system of justice which will respect and encourage the full humanity of each man and woman. There are unwelcome truths to hear and hard inequities to correct. All of us will be changed in bringing a fuller justice and a humanity to our prisons. Speaking to you as pastors, we welcome this. For, in the extreme seriousness of such efforts, we can perhaps know again what it is to be brothers and sisters of all men and women.5

A few weeks after the Attica riots the question of justice arose again in a brief reference. On October 21, 1971, Cardinal Carberry addressed the synod of Bishops in Rome. The Cardinal in the opening of his address pointed out attacks on the dignity of the human person. In this address there is a brief mention of inmates and victims of the criminal justice systems who have their human dignity crushed from them. This comes from a desire to avenge the crime rather than to correct and rehabilitate the criminal. This was placed in the midst of a list regarding injustice in the areas of race, religious freedom, abortion and prisoners of wars. Those incarcerated because of criminal activity were presented by the Cardinal as still worthy of help. This is so because of the inherent goodness of human dignity.6

5Ibid., 241

Toward the end of the year (1971) a substantial letter was written in regard to the prison system by Archbishop Humberto S. Medeiros of Boston. The pastoral letter, entitled “The Care of Prisoners,” was the Archbishop’s Christmas letter to his people for that year. The opening paragraph of the letter speaks of his competency as a shepherd of the flock of Christ to speak out on the issues which surround those who are incarcerated. It is a concise statement of his role as an advocate of Christ to speak on behalf of the incarcerated whom he refers to as brothers and sisters.  

Nothing genuinely human is alien to the Christian heart (cf. Gaudium et Spes, 1). That is why such human things as crime, programs of human rehabilitation and penal institutions fall within the competence of the shepherds of the flock of Christ. Commissioned to evaluate and judge all human activity under the moral law of our Holy Redeemer, a bishop cannot fail to teach in season and out of season, to rebuke and to correct, to encourage and to admonish, with love, understanding and compassion (cf. 2 Timothy 4:2-5). For this reason I request your enlightened help for all those brothers and sisters of ours confined to jails and houses of correction, as well as for those responsible for their operation. We need to encourage every effort toward the elimination of every deficiency and shortcoming in dealing with “the least” of Christ’s brethren in prison (cf. Matt. 25:36).

The pastoral letter addressed four areas of concern. The first was the condition of the prison system as such. Here, the Archbishop described these institutions as filled with
violence and frustration. All levels of correction (inmates, correctional officers, prison officials, legislators, and the public) experience deep frustrations.\footnote{Ibid.}

Our imprisoned brothers and sisters are angrily or hopelessly assuming that no one really cares about them or their needs; our correctional officers are wondering whether their dedication and efforts are really understood or appreciated; our prison officials are becoming disillusioned by the lack of recognition for their genuine concern and sincere efforts; the general public appears bewildered as people try to reconcile deep-rooted fears and misconceptions with their natural feelings of compassion and forgiveness; and the members of the legislature, somewhat confused by their role and responsibilities in the area of corrections, have reacted and responded to perhaps poorly informed and fear-filled misgivings of their constituents.\footnote{Ibid.}

In the second section of the letter the Archbishop stated the beginning of the way out is the life of respect. We are to give this to every person including members of the inmate population. Archbishop Medeiros stated that the worth of every person remains intact despite our sinfulness, our malice, our faults, and our weaknesses. Every human being is made in the image and likeness of God and we possess this from our very nature. The Archbishop also referred to the solidarity of Christ with our brothers and sisters in prison. He further stated that there must be given to those imprisoned opportunities for change and rehabilitation, using the latest findings in behavioral sciences to develop vocational and educational skills. He does not fail to mention that this is not just one
sided. The inmates too must respond honestly to their areas of faults and admit their areas of weakness and guilt.\textsuperscript{11}

The third section of the pastoral letter was addressed to correctional officers, prison officials and the public. This section began with a strong and profound charge to correctional officers. It is a challenge that lets them see their role in regard to prisoners and the importance that they have in the prisoners’ lives.\textsuperscript{12}

Correctional officers must daily realize their awesome, difficult and challenging role in the process of corrections. By their personal example, their idealism, their tried sincerity, their patient strength, their mature control, they are a vital force in the hopeful restoration of human beings.\textsuperscript{13}

The prison officials were also addressed and affirmed in their call to be leaders. They are to accept the challenge of dealing with human weakness in all its violence, failure and dark areas of sin. The Archbishop also spoke on the area of public responsibility. The public and the legislature “must face up to” the task of effective penal reform.\textsuperscript{14}

A concerned public must face up to its responsibility of supporting meaningful legislative proposals in the field of corrections. Apathetic unconcern or timid misgivings can completely undermine the sincerest efforts at making needed changes. A competent and concerned legislature,

\textsuperscript{11}Ibid.,467-69.

\textsuperscript{12}Ibid.,469.

\textsuperscript{13}Ibid.

\textsuperscript{14}Ibid.
guided by wise, thoughtful and progressive recommendations from professionals in the area of corrections and people, advised by experts in human behavior and treatment, and responsive to enlightened and responsible suggestions of the prisoners themselves, will effectively provide the changes in law that prison reform so desperately needs.\textsuperscript{15}

In the last section the Archbishop offered encouragement to those chaplains and ministers who bring God’s good news to those incarcerated. They have the call to bring the precious message of hope and healing to those who suffer the tensions between the order of reality with its all too often unjust treatment, and the order of how things ought to be.\textsuperscript{16}

In summation of the year of 1971: the events at Attica changed the modern prison system. It sounded a warning call not only to civil institutions but began to have an impact on members of the Catholic hierarchy. The responses by the Catholic bishops immediately after Attica were ones of support of prison workers and defense of the respect of inmates’ dignity as having come from the Divine itself. The statements also spoke of the systemic problems of funding, and the need for the public to get involved and be part of the vision of correcting and rehabilitating of the incarcerated. There was no condemnations on either side, but there was expressed a worry that the prison system had been left go and been adrift for too long a time. These three statements begin the call by the bishops to their people to listen and respond to the least of the brethren incarcerated in the prisons.

\textsuperscript{15}Ibid.

\textsuperscript{16}Ibid.
ORIGINS 1972:

In the year 1972 a new criminal justice issue began to be raised which was capital punishment. In the state of Indiana the Catholic bishops appealed to the people to take a stand against the execution of inmates who had been sentenced to death. The opening two paragraphs by the bishops repeated the message of the dignity of human life which was expressed a short time earlier in regards to those suffering incarceration but not under capital sentence.17

Human life is sacred. Each human being is unique, never to be repeated. Human life is precious. It is the height of God’s physical creation. All the “things” in the world do not equal in value one human life.

The gift of life belongs to God alone, who shares it with man. He is the author and sustainer of life. Life is a gift, a grace, truly beyond comprehension. There is no greater loss than that a human life be destroyed, wasted or ruined.18

The bishops stated that the commandment “Thou shalt not kill” many times has been blunted by reasons and exceptions and that we need to constantly re-examine our actions.

God has told us quite clearly that it is sinful to kill. The force of this commandment, however, is blunted by all of these so-called legitimate exceptions. Society seems to say that this divine command, which stands God over the sacredness of human life, can be ignored for so many “valid,” mitigating reasons.19


18Ibid.

19Ibid.
This short but strong letter in defense of life questions the whole concept of capital punishment in our society. The first question is that of equality. Who is it that finds him or herself on death row? The letter speaks of those who are financially unable to afford good counsel. There is an undue proportion of the indigent, the male sex, the black race and the friendless. These are those who find themselves under a more rigorous standard than the white, the affluent, or the female sex.

The second question is ‘what is the motive for execution’? If it is vengeance then we face the responsibility of destroying a human being because we want to ‘get back’. By this motive we put a limit on the value of a human being which would seem to be less than the dignity prescribed by God.\(^{20}\)

The third question is that of execution being a deterrent.

The death penalty implies that man shall be denied the right to rehabilitate himself, and this raises moral and social questions not easily dismissed. It raises the question of whether society is really protected through a process of capital punishment that may be directed by a fallible tribunal, or is a life sentence an equally effective deterrent. There would appear to be no evidence to substantiate a social judgment that the death penalty is the sole effective deterrent to murder. Responsible study and statistics seem to refute this contention.\(^{21}\)

The statement concludes with an appeal by the bishops that we must be advocates not only just to the poor and powerless but also those suffering imprisonment on death row.

\(^{20}\)Ibid., 529-31.

\(^{21}\)Ibid., 531.
Finally, Jesus has told us that we must see him among those in prison. This is the most neglected and forgotten of the works of mercy. We may do well with the hungry, thirsty, naked, homeless and sick, but he must also be served among those in prison. And none more than those on death row.

This, then, is an appeal from the Indiana Catholic Conference to all people to take a strong stand asking for the abolishment of capital punishment in the state of Indiana. 22

In the summer of 1971, thirteen religious organizations filed a brief with the Supreme Court asking the court to rule the death penalty to be cruel and unusual punishment and to be unconstitutional. The court would hear arguments on this on January, 1972. The National Catholic Conference for Interracial Justice was one of the contributors to the brief. The conference objected to the death penalty because the majority of those on death row are minorities. This would seem to indicate that equal justice before the law does not exist for the minorities who all to often are also poor. This conference also objected to the death penalty because it clearly stops the process of reconciliation of the offender with himself and with his or her brothers and sisters. That the life giving process of reconciliation is to be stopped would be an indication to ourselves that we have become a people who no longer believe in the principle of life and hope. 23

On February 15, 1972, a group of civic and religious leaders (450 in number) signed a statement calling for the respect of prisoners’ rights. These leaders decided to

22Ibid.

support the National Council of Crime and Delinquency’s model for prisons. The reason why these two documents are included here is because one of the six initiators of the statement in support of the model was the Roman Catholic bishop, Raymond Gallagher of Lafayette, Indiana. Also, because 79 out of the 450 signers were Catholic Bishops.  

The model which the signers put forth is an updated version of the United Nation’s, “Standard Minimal Rules for the Treatment of Prisoners”. The document is referred to as “A Model Act: The Rights of Prisoners”. 

This document is divided into seven short sections ranging from general statements of rights, as in Section I, to covering specific areas of prison life such as visits to prisoners, grievance procedures and isolation. I will do a brief review of each of the sections with a short summary at the end. 

The first section is the statement of purpose and general policies for prisons. This includes the fact that inmates retain all rights of an ordinary citizen except when the law expressly takes a certain right away. The rights of the inmate include humane living conditions, such as nutrition, sanitation, recreation, ventilation and space. 

Also in this first section there is pointed out, to those operating the institutions, the fact that they have responsibilities for maintaining minimum standards of care and prevention of inhuman treatment by anyone in the facility. It calls for measures which will prevent suicide and destructive acts and the protection of inmate property by the institution.

24 Human Rights For Prisoners,” Origins 1, 36 (February 24, 1972), 595.
The second area addresses inhuman treatment in particular. These include the prohibiting of corporal punishment; use of force except in self defense, stopping assaults, escapes and riots, sexual assaults and other assaults by personnel and prisoners; use of primitive measures against an inmate when he/she asserts their rights; and discriminatory treatment based on race, religion, nationality or political belief.

The third area deals with ‘solitary confinement’. When the prisoner is in solitary confinement, areas of clothing, size of cell, diet and calories, reason for confinement, rights to an attorney, notification of the shift commander of his solitary confinement and a log book kept in these cells are important items to prevent this condition from deteriorating into complete destruction.

The fourth section addresses the disciplinary procedure that is to be carried out in the institution. This section states that it is the duty of the managers of the correctional facility to place in writing the rules and regulations of the institution adhering to a high standard of fairness and equality. Procedures of discipline must be clearly outlined and a permanent record of discipline must be kept, especially if it affects the sentence or parole status of an inmate. In cases such as these, e.g. the losing of “good time,”\(^\text{25}\) there is to be a hearing with the inmate present and represented by counsel if he/she so chooses.

The fifth section reviews the question of grievances that prisoners may have against the institution or the prison system as such. The document states that the director of the department of corrections or the equivalent will be responsible for establishing a fair and equitable procedure by which all prisoners have a right to report any alleged

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\(^{25}\) A term used to denote time taken off the sentence for excellent behavior in prison.
grievance. All grievances will be investigated and will be heard by a person or agency outside the correctional system and a written report shall be submitted to the department and the prisoner.

The sixth section deals with judicial relief. Inmates are to have access to the courts if abuses have allegedly taken place. The courts may find there is merit and may remedy the violation of the rights of the prisoners even to the point of closing the offending institution and sending the inmates to other institutions.

Finally, the seventh area visited by the document is the realm of visits to the prisoner. The director of the department of corrections or the equivalent is to be responsible for establishing a policy or resolution for visits by the prisoner's family, clergy, attorneys and friends. These are to be at reasonable times and within a reasonable limit. Public officials, such as judges, governors, legislators, have a right to visit anytime. Any citizens with a legitimate reason to visit and who are not a threat to public safety nor a disruption to the institution are to be allowed the visitations. Any refusal of a visit may be appealed to the courts who will decide whether a visit can or cannot take place.

This document which the signers brought forth to the correctional community clearly is a position of advocacy for the incarcerated. It is a document which views the prisoners as still possessing a humanity which is to be kept intact by the observance of justice and respect of their rights as human beings even though they are perpetrators of criminal acts, which at times are violent. This document sets a model which challenges
the correctional community to emulate and the civil and Church communities to support and implement.26

In 1972 the state of Florida passed legislation reinstating the death penalty. Later in the year the Florida bishops issued a statement on this legislation. This statement expressed the hope that capital punishment would be abolished in the not too distant future. In the meantime the Florida bishops statement accepted the reality of the death penalty in the state and with that in mind write that there needs to be a review of how the sentences are given, noting that in the past the death penalty was given unevenly. In the past the harshest penalties were all too often reserved for the poor, the indigent and the minorities.27

If we recall the axiom, “Justice must not be a respecter of persons,” we are forced to the conclusion that justice has too often failed that test. Those who could afford skilled defense attorneys, and could pay for the many appeals that can be made to higher courts, were evidently successful in many cases in avoiding capital punishment. Circumstantial evidence, “voluntary” confession, and discrimination in jury selection—all these have influenced, indirectly at least, capital conviction decisions.

The point we are making is this: If the death penalty is to be restored in Florida, it is imperative that adequate workable safeguards be written into the law itself to forestall the injustices of which we have spoken. The redemptive and rehabilitative aspects of punishment should more insistently be stressed than its retributive aspect. Life should be taken only in extreme necessity.28


28Ibid., 402
The Florida bishops, although accepting the political reality of the death penalty, did not stop in their role of advocate for the incarcerated. The bishops clearly pointed out the problems of justice in our society which favors the rich and powerful and comes down on the poor severely, especially when dealing with capital cases. The Florida bishops also pleaded with the civil authorities and the public not to lose sight of the value of rehabilitation and the restoration of a person back into society.

In reviewing the year of 1972 we see that two items have become clear in regard to the criminal justice system and prisons. The first is the reinstatement of capital punishment within many of the state governments, concerning which the bishops of two states immediately spoke in concern for the lives of prisoners and the concern of justice. Also in 1972, seventy-nine (79) Roman Catholic bishops signed a document supporting and advocating prison reform and set forth a possible model or direction for society and its authorities to adopt. It is clear in the emerging issue of capital punishment the Church leadership is beginning to state its position as being an advocate for life. The condition of our prisons, far from being ignored, was rather given a positive push forward by many of the bishops of this country.

ORIGINS 1973:

In the spring of 1973 Bishop Joseph A. Durick of Nashville, Tennessee wrote a pastoral letter concerning our prison system and the presence of capital punishment in our society. The bishop began his pastoral with a statement that all people have an obligation to respect the rights of others and not to violate them. Historically, those who do violate the rights of others have always been difficult cases for society to deal with, and, all too
often, the criminal justice process comes to a conclusion which is not very positive or productive.

The bishop then proceeded to praise the efforts of those who have the ideals of reforming our correctional systems and bringing to bear a more enlightened attitude to the prison system itself.29

With these ideals having been cited, today’s corrections system has a more positive outlook. Those men and women who have carefully studied crime, and its effects, and prisons, and their effects, speak now of “rehabilitation” rather than punishment. More attention is being given to all human rights, and, hopefully, even more people will realize that the greatest endowment of all is human life. Nothing else has quite the exciting potentials for good.

These same considerations are true of law offenders. Aware of the significant figures of recidivism, or subsequent criminal convictions, it would appear that much of this pattern could be changed if our corrections system were given the funds and assistance truly to rehabilitate, and to bring into our society a human being with all the good that the term implies, after he or she has been able to re-build lives and restore hopes and develop skills to live peacefully and productively within society.30

The bishop in the remainder of his letter dealt with two issues. One was the needs of our prisons today and the second was the problem of the death penalty. The first issue is in regard to the issue of prison reform, in which Bishop Durick reiterate many of the concerns for prisoner rights that have been previously stated, i.e. health care, visitation by family, priority of rehabilitation by professionally trained staff. The bishop also spoke of


30 Ibid., 650.
the creation of more and better facilities to avoid the problems of over crowding, better pay for prison staff (with the right to expect effective work in return) and the need to address the marital rights of the offender. Bishop Durick gave a balanced and enlightened advocacy not only for the inmate population but also for the whole system, citing the need for better institutions and for better treatment of prison workers.

The second issue the bishop spoke on was that of the death penalty. Citing several sources he questioned the death penalty’s ability to deter crime. The bishop also questioned those who are subject to capital punishment in terms of why is it always the minorities and the poor who undergo the penalty. The bishop also questioned the appropriateness of the death penalty in the modern state. The pastoral concluded by urging its readers ‘to treasure life and not to gamble with it,’” asking the state of Tennessee not to reinstate the death penalty.  

In the fall of the same year the United States bishops at their fall meeting (November 12-16) in Washington addressed the problem of the penal institutions in this country. The pastoral document covered twenty-two specific areas of reform, ranging from race discrimination to adequate training of staff. The bishops began their pastoral with the quote from Mt. 25:36 ff, where Jesus states his solidarity with those in prison. Using this quote from scripture as the keynote for prison reform, the pastoral document began by considering the poor conditions of America’s prisons at the time.  

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31Ibid., 650, 659-60.

Early in the letter the reason for their concern is stated, which was the fact that constitutional rights of America’s prisoners were routinely being violated. The bishops make it clear that this document was not to inhabit, harass or condemn the administrators or workers of these institutions, that for the most part these individuals are decent people, trying to a good job. It seems that the brunt of the criticism from the bishops was borne by the system as such, and that the only way to rebuild the lives of those who are incarcerated is to address the inadequacies of the prison system, which are part of a greater system (namely the government) which also must bear the burden of irresponsibility and inadequacies. Thus, the document addressed society in general and the criminal justice system in particular as being partners in the ineffectiveness of corrections in the United States. There are conditions of poverty, deteriorating family life and discrimination in our society, delayed trials, lack of adequate counsel and overcrowding in the criminal justice system which all contribute to a failed correctional system.

In speaking about the prisons as such, the bishops addressed specifically the purpose of a correctional institution. The first point that is stressed was that not all felons need to be sent to large penitentiaries. First time non-violent offenders, especially the young, can be put into less expensive, more human environments, e.g. minimum security institutions and half way houses, where they will still be able to have their work and keep their families intact.

However, the remainder of the felons who are more hardened and violent do need incarceration in institutions which will afford security. Prisons are to be places of
custody for the protection of the public, an essential purpose of incarceration. They are to be places of punishment in a sense of a “type of exile”. However they are not to be places of humiliation and abuse.

Ultimately prisons are to be places of rehabilitation. The bishops taught that the field of corrections needed to have in mind that the incarcerated are individuals who are created in the image and likeness of God and endowed with free will. Rehabilitation is to be the driving philosophy of the correctional system to return felons back to society as contributing citizens, hopefully with a low rate of return to prison. Methods of rehabilitation are to be offered to the inmate population in which the freedom of the inmate to accept the program or reject it is respected without any punishment or discrimination against the inmate who prefers not to participate.

In speaking about the operations of the correctional institutions the bishops criticized institutions which place rehabilitation staff in subordinate positions. If the prisons have the purpose of returning a better product to society, then the rehabilitation staff needs to be upgraded and protected by policy in the correctional system.

Prisons should be located near the home environment of the inmates and the inmates’ families. Jails and prisons are not to be built in rural areas of the country where personnel are recruited from rural environments. The reason for this is because the inmates are mostly from urban centers. Presently, jails which are constructed in rural areas place an undue stress on family ties of the inmate and incarcerate the inmates in an environment in which the staff are ignorant of the problems of urban America. Staff’s inability to communicate with inmates in this situation often becomes a source of
alienation. They are clearly not able to be role models who can demonstrate values which come from different backgrounds of race, ethnicity, and social composition.

Correctional institutions are not just obligated to act as places of custody but to operate as places of safety for those who work and live in these institutions. The cutting back of funds on humane issues such as safety, diet, and bathing generates an attitude that indeed society is their enemy; and tends to encourage and develop the spirit of the predation rather than enact a change of person which will benefit the society which he/she will rejoin.

Having reviewed the purpose and operations of correctional institutions, the bishops then proceeded to deal with the major part of their pastoral which is the rights of prisoners. This section contains twenty-two specific recommendations to the administrators of prison, judges and legislators. Before they began to bring forth these recommendations, they clearly disclaimed any intention to harass wardens and administrators or denigrate correctional workers in their work in dealing with the difficult conditions of prison environment. The intention was simply to set forth recommendations which the bishops perceived as protecting the civil liberties of the incarcerated.

The following are their recommendations:

1. Place inmates in prisons in urban centers near their homes. This is for the desirable effects mentioned above.
2. The pay scales of correctional workers should be on a par with those in similar areas of work. Staff should have the opportunity of further education. Recruitment of staff should be fair and equitable based on ability and training not politics.

3. Facilities and programs should be developed on the particular needs of the prison population. Men and women should be separated, as well as older adults and juveniles. This also includes separation of sex offenders, emotionally disturbed, etc.

4. Discrimination because of race, religion, or ethnic background is not to be allowed. There are to be inspections which review privileges, work assignments, etc.

5. Free exercise of religion is be allowed in every facility. The expression of various faiths should be welcomed. Chaplains should be allowed in institutions on a regular basis. Respect of the religious traditions of inmates is to be demonstrated in the correctional institution. Chaplains are not to serve on disciplinary or parole committees, or boards, nor should they be commanded to testify concerning an inmate before a parole board or share confidential information.

6. All inmates are to be given a copy of the regulations of the institution. They are to be advised of their rights and obligations. They are to be put in a language the inmates understand and are to be open to public scrutiny.

7. Inmates are never to be involved in the administering of punishment to other inmates. Physical or corporal punishment is to be eliminated. Solitary confinement is given only when absolutely necessary and then in a normal well lit cell with ordinary routines of hygiene and food.
8. Institutions are to be safe. Inmates are to be protected from assaults of any kind, even if it involves a transfer from the institution.

9. Elementary and secondary education is to be available to all inmates, as well as opportunities to avail themselves of vocational training that would be truly useful in society. Industry and labor are to be involved in this area of corrections, helping the inmate prepare for his/her reentry into society.

10. Inmates are be involved in work that is meaningful and not just useless busy work. National standards should be adopted for compensation for work done. The compensation should be a fair wage which could keep inmates’ families off welfare.

11. Inmates are to live and work in humane conditions. This includes a proper diet, clean clothes, medical and psychiatric care. They are to have access to toilets and showers, good lighting and ventilation in living and working spaces.

12. Inmates should not be forced into social rehabilitation programs which are questioned by competent authorities either inside the institution or outside. These programs can be refused without any adverse effects on the inmate.

13. There should be national standards for the reception of mail, censorship, availability of literature and opportunities to listen to the radio and to watch television.

14. Visits by family and friends are to be encouraged. Visits are to take place in well lit rooms which are conducive to family visits. Conjugal visits should be allowed between husband and wife where feasible. Liberal use of furloughs and work release should be utilized when prudent. This allows the strengthening of family ties and helps the inmate establish a work record.
15. A national committee of knowledgeable citizens in corrections, law, and related areas should establish a national code of civil rights for the incarcerated. They should develop standardized procedures for grievance and due process. Furthermore they should develop an inmate’s bill of rights which clearly defines the rights and privileges, duties and obligations of the incarcerated.

16. National standards should be adopted to inspect and review correctional institutions and their programs. Those who carry out inspections are to be educated and trained in all aspects of corrections. The results should be made available to the public.

17. No resident should be detained because there is no opportunity for employment. When and where employment is a condition for release the correctional facility must make every opportunity to see that employment is available on release and the inmate has been offered counseling and guidance preparing him to be employed when released.

18. Inmates are to be given a release date for the completion of their sentence or the beginning date of their parole.

19. Parole is to be a vital part of time served. Parole is to be assumed unless there are good reasons to withhold it from the inmate.

20. Congress should review the possibility of allowing social security to be given to inmates.

21. Upon release all civil liberties are to be restored to the former inmate. Community corrections are to develop community efforts and attitudes which would allow a better acceptance and integration of the former inmate into society.
22. Dissemination of arrest records should be controlled especially where no conviction took place, except in cases in which the need for personal or community security can be demonstrated.

Upon finishing their recommendations for the correctional system, the bishops cited that the system for parole and pretrial incarceration needed to be overhauled. Parole boards are often overburdened with little or no information, and those awaiting trial find themselves in jails which are referred to as houses of terror.

The bishops concluded their pastoral statement with action steps that the Church itself is to take. Dioceses are to use newspapers and other means of communication to push for correctional reform. They are to provide chaplains for institutions. Parishes are to be involved with prisons if one is close by. The Church is to work in over coming neighborhood resistance to community based institutions and support the efforts of the local prison chaplain. College and universities are also challenged to contribute to the reform by the volunteering of their time and expertise. Finally, each individual is to be responsive to the Lord’s challenge to be of comfort and solace to those imprisoned, as part of the least of the brethren.33

This rather extensive document written almost thirty years ago is a document which clearly states that the Catholic Church, its bishops, priests, and people have an advocacy role for those incarcerated. Although the inmates are the prime concern of the document, the document does express a need for a well trained and fairly paid staff. It states that, although buildings are not the complete answer, adequate housing in humane

33Ibid.
institutions located in appropriate places are important for an effective correction system. It, as it states, does not harass the officials but rather gives them more latitude to truly do what they have been trained to do in corrections which is to rehabilitate. With this document the year 1973 closes. It is a year that sees the first major position of advocacy by the American bishops in regard to the prison system. It sets the standards for correctional systems to reach and incorporate in their day to day operations. It is a practical document which gives simple, straight-forward reforms, most of which can be implemented in many institutions without undue difficulty or hardship on the institution.

ORIGINS 1974:

In May of 1974 the Archdiocese of Washington, D.C. concluded a six month study of criminal justice in the Washington area. The task force, which was created by the Archdiocese, put forth sixty-two recommendations in five general sections. Section I deals with recommendations to the Archbishop and the Archdiocesan Pastoral Council. There are seventeen in number. Many of them reiterate the reforms that we have seen before in the national pastoral document on penal reform issued in 1973. However there are two areas of the prison population singled out for specific care. One is the problem of incarcerated women.\textsuperscript{34}

Make the problems of the incarcerated women a priority concern. The female population is small enough to allow a pilot project for women in community corrections. A house could be organized as such to allow the women to have their children with them at least on a part-time basis.

Services should include counseling, adult education and vocational training, work-release programs, moral development and religious services.\textsuperscript{35}

The other is developing stronger community ties for black inmates.

Encourage the Archdiocesan Black Secretariat to work closely with the Archdiocesan Office on Justice and Corrections and to develop strategies to involve the community.\textsuperscript{36}

The Archbishop of Washington was also asked to create a full time office of Criminal Justice and Correction, to oversee the reform needed in the penal systems in the Archdiocese.

The second section which is the longest section of the document (recommendations 18-44) is a job description of this new office. This office is to be one which is to engage the many levels of the local Church in offering support programs for the incarcerated. These recommendations range from dealing with correctional institutions on offering transportation services for visitors, to doing workshops and education programs for the community on prisons. The third section challenges the local parishes also to get involved, e.g. recruit volunteers to help in the prisons, offering awareness programs involving prison chaplains and correction personnel, help ex-offenders in the parish community get adjusted to the community.

The fourth section challenges the clergy and religious to be involved in the correctional system. Also this section deals with the visitation of families of the

\textsuperscript{35}Ibid., 15.

\textsuperscript{36}Ibid.
incarcerated, coordinating job opportunities by parishioners, identification of support groups for the offender and offender’s families.

Finally, the last section speaks to the individual Catholic. These are recommendations which ask the person to write to their representatives for prison reform. It asks the Catholic to offer financial and moral support for organizations pressing for prison reform, and to visit halfway houses to inform oneself of prisoner needs and problems.37

This document proposed by the task force created by the Archdiocese of Washington, D.C. is an ambitious plan of involving a local Church in the problems of corrections and the rest of the criminal justice system as recommended by the national document of 1973. As the national Church perceived its general recommendations as part of its advocacy role, so this local Church created a task force to move the advocacy role to a more concrete application by challenging itself to be, in its many levels, islands of relief and hope.

In the November meeting of 1974 the United States bishops, after rejecting a document that was not perceived as an adequate work on capital punishment, went on record as approving a one sentence statement that read as follows: “The U. S. Catholic Conference goes on record in opposition to capital punishment.”38

The above were two main actions of the bishops in 1974. The first, as has been stated, is an excellent document on advocacy to the incarcerated challenging local

37Ibid., 14-16.

Churches to respond to the imprisoned and their families. The second, although a single line, is an important statement in which the bishops of the United States state early on, as a body, their opposition to the death penalty. They did not allow the lack of a formation of a document to prevent their opposition to this issue. In some ways this could be seen as expressing a felt need to be advocates for life, even the lives of those who have committed heinous crimes and to allow a formal statement of their advocacy to come later.

**ORIGINS 1975:**

In the summer of 1975 the Diocese of Cleveland issued a statement in favor of gun control. In this statement there is a short paragraph which recommends mandatory sentencing for crimes in which firearms are involved. This would, at first glance, seem to indicate a position counter to advocacy for the incarcerated, since mandatory sentencing usually means longer time in prison. However, the Church does have an obligation to be an advocate for the protection of society and the common good. It is evident that this diocese believes that a mandatory sentence would act as a deterrent to violent crime. It is important to note also in this paragraph that the deterrent is not the only thing that is suggested. The Diocese also advocated that the correctional system intensify its efforts to rehabilitate offenders who have committed crimes with the use of firearms. Thus, the Diocese wished to couple protection and justice in society with its advocacy of rehabilitating the offender.39

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39“Cleveland Diocese Urges Gun Control,” **Origins** 5, 6, 83.
Although there is only one document in 1975 in regard to advocacy of the correctional system, prisoners and workers, it continued the consistent theme of previous years that human life is sacred. Even for those committing heinous crimes in the midst of a culture which uses firearms all too often, rehabilitation was not lost sight of.

ORIGINS 1976:

On February 19, 1976 a group of Rhode Island religious leaders representing the major denominations of the state issued a signed statement on capital punishment. Among the signers was Bishop Louis Gelineau of Providence, Rhode Island. The following is a review of their statement.

The signers start with Sacred Scriptures, using the two accounts of human creation from Genesis (Gen. 1:23 and Gen. 2:7) as indications that human life is sacred. Any destruction of this gift of life which comes from the Creator is an affront to the Creator.

In their review of Scripture the religious leaders did admit that Scripture allows capital punishment but only for the protection of society. However, it is the perception of the Scriptures that life is sacred. Compassion and forgiveness are qualities in the Scriptures which are held as strongly as the quality of justice. Therefore, the signers of this statement understand that the reason for the imposition of the death penalty is the protection of society. Thus, in the state of Rhode Island the imposition of the death penalty is not justified because the state has other effective means to contain the perpetrator. In their conclusion they urge their readers to work for four goals: 1. work for
the greater protection of society; 2. affirm the God-given value of life; 3. satisfy the basic human need in our society; and 4. promote justice and peace.

This statement makes an important point that society no longer needs to rely on execution of felons for its protection. It advocates other ways of punishment for serious crimes.

The use of Genesis in this statement anchors the sacredness of human life from the perspective of the Jewish-Christian tradition.\textsuperscript{40}

On October 21-23, 1976, a justice conference, ‘Call to Action,” was sponsored by the U. S. Bishops’ Ad Hoc Committee for the Bicentennial. At this conference a number of issues were discussed and formed into resolutions for the United States Catholic Bishops to accept. Among these issues was the subject of prisons. Two documents from this conference address this issue. The first document, entitled ‘Personhood,” was a set of resolutions involving a bill of rights and responsibilities of inmates. In the first resolution discussing Christian Community the conference states the following in paragraph nine:

The Church advocates the entitlement of prisoners to rights as human beings and full human development. Therefore, the Church calls for action to insure the following:
(a) The extension of civil rights to all prisoners, especially the right to coverage by federal minimum wage laws and the right to due process while incarcerated;
(b) Enforcement of a moratorium on the building of new prisons and the creation and funding of community alternatives to present patterns of incarceration;
(c) The cessation of capital punishment;

\textsuperscript{40}Death Penalty’s Future,” \textit{Origins} 5, 40 (March 25, 1976), 629-32.
(d) The development of parish outreach programs to inmates, ex-offenders, and their families to facilitate reentry into the community;
(e) Elimination of so-called status offenses for 18-year olds and younger, which are discriminatory and unnecessarily introduce teenagers into the criminal justice system.\(^{41}\)

The second document that the conference issued which dealt with prisons was the one entitled ‘Nationhood’. Under the recommendation ‘Goals for Public Policy’ section three states the following:

A national commitment to economic and social justice and the elimination of poverty and of racism as an effective means of reducing crime. This policy should include programs to involve citizens, neighborhoods and organizations in preventing crime and in monitoring the criminal justice system, especially aimed at humanizing the penal system; knowledge of the rights of the accused, adequate legal representation, representative juries, competent judges, speedy trials, due process and judicial integrity; just compensation to victims of crime; abolition of capital punishment; development of alternatives to prisons, rehabilitative services and reintegration of offenders into the community.\(^{42}\)

These two documents, which are recommendations by the delegates of a conference sponsored by the U. S. Bishops, clearly urge the bishops to continue in the position of advocacy for penal reform and care and rehabilitation of the inmate. Both documents also urge the bishops to accept their recommendations for the abolition of capital punishment. Soon after the conference issued its recommendations, the U. S. Catholic Bishops met in Washington, D.C. and issued ‘The Pastoral Letter on Moral


\(^{42}\)“Nationhood: Goals For Public Policy,” Origins 6, 21 (November 11, 1976), 331.
Values”. The pastoral letter was a review of the many moral issues facing our nation and Church. The topic ‘Crime and Corrections” was part of the pastoral which spoke about the increase of crime in the United States and problems in the criminal justice system. Within this section of the Bishops’ letter that part of the criminal justice system which deals with incarceration was addressed.\(^43\)

> Often enough imprisonment only confirms inmates in criminal attitudes and practices. Sometimes prisons are also settings for gross violations of prisoners’ rights. Prisoners, like the rest of us, are beings of transcendent value, and incarcerating them in prisons which dehumanize is a form of brutality. They have a right to protection against assault and against threats to their lives and well being. They have the right to proper food, health care and recreation and to opportunities to pursue other human goods as education and the cultivation of their skills. Reform of our nation’s penal system in light of these and the other human rights of prisoners is urgent and long overdue.\(^44\)

Once again we see the bishops of this country advocating the reform of the penal system and advocating the rights of the prisoner. Though the statement is short and general, it is quite clear that the bishops have chosen the position of advocacy for inmates and the reform of the correctional system.

In late November of 1976 a study paper reflecting on the death penalty was prepared by the Pontifical Commission for Justice and Peace for the U. S. Catholic Conference. The paper supports the position of the U. S. Catholic Bishops in 1974


\(^{44}\)Ibid.
favoring the abolition of the death penalty. This paper addresses the abolition of the death penalty on three levels. The first level (the theoretical plane) of this document gives a short review of the history of the Church’s position on the death penalty and concludes with the four points.45

Therefore, on the theoretical plane:
1. The Church has never directly addressed the question of the state’s right to exercise the death penalty.
2. The Church has never condemned its use by the state;
3. The Church has condemned the denial of that right;
4. Recent popes have stressed the rights of the person and the medicinal role of punishment.46

The second level is an examination of elements that lead to a pastoral position against the death penalty. The first element is what values are put forth on religious and humanitarian grounds which argue against capital punishment. The consideration included are: 1) the Lordship of God over life, 2) the duty to help rather than punish the criminal, 3) human fallibility in the justice system, and 4) the complex nature of the criminal act. The second element in leading to a pastoral position (the duty to help the criminal) is used as a critique against capital punishment in that the three ends of punishment are not achieved. The death penalty is not: a) medicinal, b) it is not a deterrent, c) although it is vindictive (or retributive) it is not humane. The third element in developing a pastoral position is the critique that capital punishment is unfairly applied. The reality of its enforcement is against the poor and non-white segments of our society. It indicates a bias in the United State’s criminal system. Therefore, the paper in

46Ibid, 391.
its conclusion justifies a position which is counter to the death penalty. On the third level
the paper puts this position in context in the United States and the question of
constitutional rights. The depriving one of his/her life is arbitrary and cruel. Finally
capital punishment is put in the context of the pro-life position of the Church and in the
defense of the sacredness of life.\textsuperscript{47}

This paper gives the bishops deeper reasons to affirm their 1974 position against
the death penalty and asks them to continue to reflect and dialogue on this most serious
issue. This paper given by the Pontifical Commission for Justice and Peace clearly asks
the bishops of the United States to continue their advocacy of human life especially for
those prisoners under sentence of capital punishment. They are not just to maintain this
position, but to deepen it by constant examination of the issue involved.

The last statement of advocacy in 1976 for the prisoner and the prison system was
given in December of 1976 by Bishop Joseph A. Durick as an interview for \textit{The Texas
Catholic}, a diocesan newspaper for the Diocese of Dallas. Bishop Durick at the time of
the interview had resigned as Bishop of Nashville in 1975 and became a Chaplain at the
Federal Correction Institution of Seagoville, Texas. In the interview the Bishop aligned
himself with the position from the Pontifical Commission on Justice and Peace reviewed
above. He, the bishop, touched on all the major points of the paper only in a more
concrete way, probably due to his work as Chaplain. The bishop also addressed the three
ends of punishment; medicinal, retribution, and deterrent are not able to be applied
successfully to the death penalty. Evidence indicates that the deterrence of a death

\textsuperscript{47}Ibid., 391-2.
penalty does not stop the commission of capital crimes. The roots of the Christian faith are in forgiveness rather than the taking of life. The retribution aspect of capital punishment unfortunately falls on the poor and unfit, and needless to say the medicinal end of capital punishment is non-existent.\(^{48}\)

In summary 1976 saw the increasing involvement of the U. S. Bishops on the question of the death penalty, favoring the abolition of it. The bishops also continue the role of advocacy of penal reform and of inmates’ rights. There is an application and continuance of the theology of the dignity and sacredness of human life as the basis of their advocacy.

As the year ended, Cardinal William Baum of Washington, D.C. issued a statement on December 27, 1976 favoring the abolition of the death penalty. The Cardinal advocated the end of capital punishment on the basis of the sacredness of all human life. The restoration of capital punishment represented a setback in our awareness of the dignity and holiness of the human being.\(^{49}\)

ORIGINS 1977:

On January 27, 1977, Archbishop Francis Furey of San Antonio, Texas, in an article written for the diocesan newspaper, Today’s Catholic, supported the reinstatement of the death penalty. The Archbishop stated that he did not accept the argument that the death penalty was not a deterrent. For him it had acted as a deterrent in the past and there


is no reason to think otherwise today. This is the first instance documented by Origins of an episcopal voice which supported the reinstatement of the death penalty. The Archbishop claimed that there was no unanimity among the American hierarchy on this issue, and that a resolution to take a position to oppose the restoration of the death penalty was defeated on November 19, 1974. The Archbishop in his statement unfortunately did not say why the current findings against the deterrent of the death penalty are not valued. Also, the Archbishop did not mention that in a later statement in that same month the United State Bishops did indeed approve a statement opposing the death penalty.\(^{50}\)

On February 1, 1977, Archbishop Joseph Bernardin stated that he did not challenge the right of the state to punish the capital offender, but rather urged all to examine if there were not a better approach for protecting the common good rather than just executing the offender. The Archbishop sees that execution by the state is not necessarily best for society which ought to be about protecting life rather than taking it. In this short statement it is evident at this time that there was a debate going on about this critical issue. The death penalty was perceived as inappropriate, yet the Cardinal had to admit that in traditional Catholic thought the State has a right to execute.\(^ {51}\)

In the fall of 1977, the U.S. Bishops issued a paper to the synod of Catholic Bishops in which they defended the dignity and value of life. There was one sentence which referred to capital punishment and this reference stated that this was a matter

\(^{50}\)Archbishop Francis Furey, “The Death Penalty Supported,” Origins 6, 35 (February 17, 1977), 563-4.

which ‘requires special attention’. It seems from this that the U. S. Bishops at this time were still working on a general statement regarding the death penalty.\textsuperscript{52}

In the November 24, 1977, issue \textit{Origins} published the conclusions of a meeting of the Hispanic Catholic Community sponsored by the U.S. National Conference of Catholic Bishops. The meeting entitled \textit{Segundo Encuentro}, was actually held in the fall of 1976. These conclusions just became available in English a year later. In their recommendations to the U.S. Bishops there was one passage which asked the Bishops to accept a role of advocacy in regard to Hispanics who have been incarcerated. In part three of their document which deals with human rights the following was stated.\textsuperscript{53}

\begin{quote}
Aware of the lack of services and Hispano personnel for the imprisoned we resolve: a) That the Church develop services and religious, educational and rehabilitative programs for the imprisoned. b) That more Hispano personnel be provided, prepared to serve in prisons and minister to ex-convicts, both male and female. With respect to women—that they have the opportunity to develop as human persons and to contribute their talents to the Church and society.[sic]\textsuperscript{54}
\end{quote}

In 1977 advocacy statements for inmates and reform of the penal system were non-existent except for the above meeting sponsored by the U.S. Bishops in regard to the Hispanic Community and those were not really episcopal statements but only recommendations for the Bishops. In regard to Capital punishment, this area received

\textsuperscript{52}“Human Dignity and the Value of Life,” \textit{Origins} 7, 18 (October 20, 1977), 287.


\textsuperscript{54}Ibid., 361.
passing attention, with the first bishop to state publically that he favored the application of the death penalty in certain circumstances.

**ORIGINS 1978:**

On March 1, 1978, the United States Catholic Conference issued a statement on crime entitled “A Community Response to Crime”. Under the section dealing with criminal justice issues is a subsection which deals with prisons, incarceration and alternatives. This part begins with the form that Christian life is to take in response to criminal behavior.55

Christians, as members of the civil society, participate in the determination of the community’s response to criminal behavior. As Christians, however, we have a particular responsibility to see that the message communicated to the offender and to the community reflects Christian principles, including: the right to life and human dignity; responsibility to protect the rights of all persons; mercy and compassion for those less fortunate; forgiveness of those who offend or harm us; and the openness of a loving and healing community.(9)56

The statement then goes on to say that the prison system at it stands is itself problematic. It is dehumanizing. It, deprives the inmate of the opportunity to make responsible decisions. It provides little opportunity to develop skills for future employment, and more than likely teaches and reinforces criminal behavior by the prison environment. The jobs that are given to inmates are basically to keep up the maintenance

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56Ibid., 598.
and operation of the facility. Prisons as they exist today do little in providing long term employment capabilities, family stability or strengthen ties to our community.

The statement also suggests that incarceration in the prison system should be the last course of action. The statement recommends that alternatives to correction need to be developed and the existing ones need to be utilized. Community service, restitution to the victims, drug and alcohol treatment programs should be the usual course of action. Those crimes which are violent do indeed need to have the perpetrator placed in secure settings. These secure settings, the statement argues, should be small with a more humane environment and effective rehabilitation programs. These rehabilitation programs are to incorporate the felons back into community in order to begin to allow reconciliation and acceptance to be a part of his/her treatment. 57

This statement by the U.S. Catholic Conference also states that the use of the death penalty is an inappropriate tool of punishment and states the following to be the response that should issue from the Christian

The critical question for the Christian is how we can best foster respect for life, preserve the dignity of the human person and manifest the redemptive message of Christ. We do not believe that more deaths are the response to the question. We therefore have to seek methods of dealing with violent crime which are more consistent with the Gospel’s vision of respect for life, and Christ’s message of God’s healing love. In the sight of God, correction of the offender has to take preference over punishment, for the Lord came to save and not to condemn. 58

57Ibid., 598-9.
58Ibid., 599.
Finally, in the statement there is a section which addresses the work that the local Church can do for the convicted felon. These are recommendations which range from helping parolees to find suitable work to providing subsidies for prison chaplains to operate more freely in their call to minister to the incarcerated.\textsuperscript{59}

The statement on crime presents a positive advocacy role for society and the Church. The value of the inmate and the need for penal reforms are clearly presented. The document repeats and supports much of the advocacy role that has been presented above. It is interesting to note that in the late seventies the concern about crime in America is beginning to surface. The increase of criminality will generate an unprecedented growth in the correctional systems of the United States.

On October 24-26, 1978, the U.S. Catholic Conference held a national family life workshop in which Bishop Eugene Marino, S.S.J. Auxiliary Bishop of Washington D.C. addressed the participants in matters concerning Afro-American families. In this address the bishop stated the following.\textsuperscript{60}

A pervasive element of our social fabric today is the problem of crime. An otherwise sophisticated society is only beginning to realize the extent of crime. Within this larger picture of an unprincipled and increasingly hedonistic society, seized with a compulsion for unending acquisitions, the most severe penalties for criminal conduct have been exacted, often unfairly, against black Americans. A disproportionate number of black men spend useless lives behind prison bars. The Church must function as the voice of the tired, the demoralized and the

\textsuperscript{59}Ibid., 602.

\textsuperscript{60}Bishop Eugene Marino, ‘Black Families and the Church,’ \textit{Origins} 8, 22 (November 16, 1978), 341ff.
victimized—those against whom our criminal justice system has aimed its harshest sanctions. The Church should ask for a re-examination of disfunctional aspects of our criminal justice procedures especially where these procedures adversely affect the family life of the poor and minorities.  

From the above quote it is clear that the bishop is issuing a challenge to the Church to ask for a re-examination of its policy of incarceration in regard to minorities in this country. It is a call to the Church to be an advocate, a voice for those for whom the criminal justice system has reserved its harshest sanctions, the poor, the minorities, those demoralized by society.

The year 1978 has few references regarding the correctional system, the incarcerated, and the problem of capital punishment. Those statements that were given continue to confirm the role of the advocacy of the Church for the incarcerated and also continues a role of advocacy to help the correctional system in carrying out its call, not just to punish but to treat and rehabilitate.

ORIGINS 1979:

In Florida soon after the execution of John Spenkelink on May 25th, 1979, the Catholic Bishop of Pensacola-Tallahassee, Florida wrote a pastoral letter condemning capital punishment. In this letter Bishop Rene Gracida gives the argument of the fallibility of human justice, its discriminate use against the minorities and the poor, and its lack of deterrent against violence as the reasons for his condemnation of the use of the death penalty. The bishop views the presence of the death penalty as a flaw in American

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61Ibid., 344.
justice that needs to be corrected as was slavery and racial prejudice with its laws of segregation.  

The death penalty is an act against the sacredness of human life. The bishop in the opening of the letter uses the example of the death penalty in the life of Jesus of Nazareth to examine its worth in our society.

Each year in Holy Week the Passion according to St. John is proclaimed in our Churches; do we not cringe when we hear the words: “We have our law, and according to that law he must die...” (Jn. 19:7). We can never forget that our Lord, Jesus Christ, was executed. God has revealed to us why he chose to redeem us. God has also revealed to us why he chose to redeem us by sending as redeemer his only begotten Son. What God has not explicitly revealed to us is why, among the countless ways in which the innocent Lamb of God could have been offered up for our sins, the Father chose to have his Son be found guilty of a law which demanded the death penalty. And so Jesus, who was sinless and guilty of no crime, was adjudged to be guilty and was executed. Perhaps by planning our redemption through such a miscarriage of justice, God has revealed to us that the deliberate act by which society takes a human life in the name of “law and order” is a heinous perversion of justice.

This pastoral letter gives an interesting allusion of Jesus’ solidarity with not only those incarcerated, but also with those convicted of crimes which demand execution. From such arguments this bishop acts as an advocate for the lives of criminals and for

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63 Ibid., 81-3.
the reform of our criminal justice system, asking for it to act with respect for human life and with equality without regard to wealth or race.

On September 30, 1979, Pope John II visited Ireland and delivered an address to the Irish Bishops on the problem of violence in Northern Ireland. The reason for the inclusion of this address by the Holy Father here is that there are two paragraphs dealing with prisoners. The Holy Father charges the Irish Bishops to be sure to respond to the needs of those who are imprisoned. The following is a quote from the text of the address.

Bishops are called to be true fathers of all their people, excelling in the spirit of love and solicitude for all (cf. Christus Dominus, 16). They should have a special care for those who live on the margin of society. Among those most needing pastoral care from bishops are prisoners. My dear brothers, do not neglect to provide for their spiritual needs and to concern yourselves also about their material conditions and their families.

Try to bring the prisoners such spiritual care and guidance as may help to turn them from the ways of violence and crime, and make their detention instead be an occasion of true conversion to Christ and personal experience of love. Have a special care for young offenders. So often their wayward lives are due to society’s neglect more than to their own sinfulness. Detention should be especially for them a school of rehabilitation.64

The Holy Father here is clearly acting as an advocate for the imprisoned, not only for their spiritual welfare but their material needs as well.

On October 26, 1979, the U.S. Catholic Conference Administrative Board issued a statement on political responsibility. In this statement a reference is made to capital punishment. In the following quote we again see the reference to the sacredness of life

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even for the offender. Also, there is reference to the inequity of punishment in our criminal justice system with the poor. The indigent and non-white race bear the brunt of this type of sentence.\footnote{U. S. C.C. Administrative Board, ‘Political Responsibility: Choices for the 1980’s,” Origins 9, 22, (November 15, 1979), 349-55.}

In view of our commitment to the value and dignity of human life, we oppose capital punishment. We believe that a return to the use of the death penalty can only lead to further erosion of respect for life in our society. We do not question society’s right to punish the offender, but we believe that there are better approaches to protecting our people from violent crimes than resorting to executions. In its application, the death penalty has been discriminatory toward the poor, the indigent and racial minorities. Our society should reject the death penalty and seek methods of dealing with violent crime which are more consistent with the gospel vision of respect for life and Christ’s message of healing love.\footnote{Ibid., 353.}

The year 1979 saw two statements by the hierarchy, one by a bishop from Florida and the other by the U.S. Catholic Conference Administration Board, dealing with capital punishment. Their condemnation of the death penalty is a continuation of their advocacy for felons who are under these sentences. This year also recorded a statement on the care of prisoners by the Holy Father, Pope John Paul II, appealing to the Irish Bishops to exercise total care for those suffering imprisonment.
On June 2, 1980, the Georgia bishops, Catholic and Episcopal, issued a statement against the death penalty. The bishops gave four reasons why they oppose this sentence. The four reasons they cited are theological reasons, based on the presupposition that the death penalty does not act as a deterrent and is, therefore, not justified as a lesser of two evils.

The first reason against the death penalty is the holiness of human life which underlies the ancient command of ‘thou shalt not kill’, indicating that if one is not forced to take a life, one should not. The second reason is the purpose of punishment, understood in Christian life as primarily reformatory and retributive, not vindictive. Vengeance is not an admissible reason for punishment in the Christian tradition. The third reason is that to take the life of one person to serve notice on others is cruel, and has led to the practice of leveling this sentence upon the marginal and the poor. The fourth reason is that Divine love acts as an impetus, a lure for human society to move forward in compassion and concern for membership in its dealings with one another. The reinstatement of the death penalty moves our response to the Divine call backwards from what we have been asked to be.

The bishops of Georgia in their statement made a clear stand for life to be advocates for those offenders who have committed capital crimes. They deepen the argument in favor of life and against the death penalty by their four theological arguments mentioned above.67

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In their fall meeting, November 10-13, 1980 the U.S. Catholic Bishops issued a major statement on capital punishment. The first area that the document dealt with was the purpose of punishment itself. The bishops allowed that the state has the right to exercise capital punishment and a right to protect itself and its citizenry from harm. However, the question is whether in today’s circumstances capital punishment is justifiable.

In their statement the point is made that punishment which inflicts evil on another is always in need of justification, i.e. what is the good to be obtained or the evil to be avoided. In the analysis of whether capital punishment is justifiable the statement goes on to give the three traditional reasons advanced for punishment, which are retribution, deterrence and reform. In regard to reform or rehabilitation one hopes to see a change of heart or attitude, but the taking of the criminal’s life does not seem to be the good path for God’s grace to touch the life of the criminal. In regard to deterrence the argument that the death penalty would set an example that would stop others from committing heinous crimes, is not borne out by empirical studies in this area.

The third justifying reason for punishment is restoration of order which has been violated by the criminal act. Criminal acts, as the bishops state, do indeed need to be punished. Punishment is not to serve as vengeance but to restore the order of justice. There are to be limits of punishment which go beyond the inflicting of injury on the perpetrator. The bishops state that to treat the perpetrator as he or she treated others is not appropriate. As an example the state is not to torture or maim anyone who has done this crime. This type of punishment only ensures that vengeance is satisfied and is not
appropriate within a civilized state. Therefore, punishment has limits and bounds not dictated by the desire for revenge but for the enactment of justice along the lines of reason. It would seem that the restoration of order the of justice in society does not necessarily need the taking of a life within the conditions of contemporary American society.

After this analysis of the purposes of punishment the bishops’ document goes on to consider the Christian values involved in the abolition of capital punishment. The bishops put forth four considerations in this part of their document.

The first value is that it sends a message that we are able to respond to violence in our society in a more humane and hopeful way. We as a people can deal with the criminal acts, even the most heinous one, not with violence and vengeance but with justice which manifests intelligence and compassion.

The second value is the Catholic Church’s belief in the sacredness of human life. Each human being is a unique manifestation of the image of God from the moment of conception to death. The Church is asked to minister to all of human kind even those who themselves have disrespected it. Their lives are not made by their action, expendable or now rendered as a means to an end, such as a deterrent against crime.

The third value is that of a witness that it is the Lord alone who is the Lord of life. The abolition of the death penalty removes doubt and clarifies the above belief that humanity is sacred to God and that sacredness is invested in the very nature of humanity by God, and remains even in the light of sinfulness.
The fourth value is that the refusal to enact the death penalty is most consistent with the life and teachings of Jesus Christ. Jesus was the presence of forgiveness and reconciliation in his ministry and his death, bringing to all a life of service not vengeance. The document then moves to the segment which deals with the difficulties inherent in capital punishment. The first difficulty is that it removes all possibility of rehabilitation or compensation. Second is that capital punishment involves the possibility of mistake. Third involves that long delays remove any validity that deterrence may have had, as well as, (fourth) creating a state of anxiety not only for the inmate but also creating damage and pain on the felon’s family. Fifth, capital punishment creates public acrimony in the public life by its publicity as well as creating unhealthy attitudes within the public. The sixth and seventh areas of difficulty are that the poor and the non-white are the segments which more often than not bear the brunt of execution. Racism and lack of good counsel too often allow certain segments of our society to suffer the maximum while allowing the affluent to avoid the sentence of death.

The conclusion of the document asks the citizenry to consider the serious problems that the death penalty brings to our values and to life in our society. It states that, although capital punishment is not outside the Catholic tradition, it does have clear evils associated with it, as numerated above. The document ends with the appeal to follow the teachings of Jesus and be a society which, in view of its punishment of evils, practices reconciliation and conversion as part of justice.

A number of specific statements by the bishops also form the conclusion of this document. The following is a summary of these statements. First, there is a need to
offer sympathy and support for the victims of violent crime and their families. Second, the recognition of the suffering caused by this violence should not lead to revenge but to help and support for the victim and the victim’s family. Third, there needs to be put in place the necessary changes in correctional systems which share rehabilitation and reform of the convicted felon. Fourth, measures need to be taken to ensure the protection of the correctional workers who are responsible for the inmates, some of whom are extremely dangerous. Fifth, the bishops call on governments to be vigorous in taking measures against terrorism. Sixth, there is a need to alleviate poverty and injustice which all too often are the poisonous environment which fosters criminal activity. Seventh, there is a need to restrict the availability of guns. Eighth, the bishops oppose the entertainment industry’s glamorizing violence and finally, there are to be educational programs which promote the respect of human dignity for all people.68

In this major document the bishops clearly exercise the advocacy of the lives of those felons who have committed capital crimes. They do this in a presentation of reason and compassion without sacrificing the importance of punishment. The teaching advocates justice, the sacredness of human life, and the need for society to persevere in the hope that reform and rehabilitation are the means that we as a people are to use in our response to those who commit crimes, even murders. Finally, the bishops in 1980 were loath to cause division in the Catholic Church in the U.S. by demanding adherence to this document. The document rather gently guides the Catholic conscience to the sacredness

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of life with the rejection of the enactment of the death penalty as an inappropriate response to violent crime.

The year 1980 witnessed two documents which advocated the sacredness of the life of the violent criminal and teach the enactment of capital punishment as an inappropriate response to violent crime in modern America. The document by the Georgia Bishops represents the continuous witness of individual bishops and bishops of a particular state against the death penalty. However, in November, 1980, the U.S. Catholic Bishops as a whole use their teaching office in the Church to advocate with a major document the evils of capital punishment and its problems and direct the Catholic conscience to consider all human life, even the violent criminal’s, as sacred and worthy of preservation and susceptible to the movement of God and God’s grace.

ORIGINS 1981:

On February 8, 1981, Archbishop Robert Sanchez of Santa Fe, New Mexico issues a pastoral letter recalling the tragedy of the riot a year previous in the State Penitentiary which left thirty-three inmates dead. Guards and inmates were terrorized, bearing the brunt of brutal behavior. In this short pastoral the archbishop teaches the flock of New Mexico the attitudes they are to possess in regard to corrections.69

My friends, I am sharing these thoughts and reflections with you today in an effort to solicit your prayerful support and interest for correctional ministry. We would be negligent not only as Christian people, but as citizens of the state of New Mexico, if we were to assume the attitude that somehow corrections belong to a select few. The

demanding and challenging work of corrections is part of that government which we believe to be of the people, for the people and by the people.

Furthermore, we should understand that the men and women in our correctional institutions were not long ago our neighbors and will again be our neighbors in the future. The spirit of Christian brotherhood demands no less of us that to treat them with dignity and respect as our brothers and sisters, and to concern ourselves with their rehabilitation and re-entry into our society as soon as that is possible.70

In regard to the institutions, he asks his people not to perceive them just as places of punishment or warehouses where inmates are to be locked up securely, but to expect them to be centers of rehabilitation and healing. This change of attitude and expectation from the Catholic Christian will enable the following:

It is this attitude that will properly support our state legislators in their decisions and our correctional officers in their challenging work. Furthermore, it will be this attitude that will enable us as Christians to understand serious mistakes in life that afflict and offend others and yet allow us a compassionate and merciful heart toward this same human person. If the words and the example of Jesus are to teach us anything, they should convince us that compassion is simply another form of love for one another.

Let us therefore pray for our brothers and sisters in correctional institutions; let us pray for the sufferings of their families; let us likewise pray for those men and women charged with the rehabilitation and security of these inmates, for in this work of correctional ministry we need both the justice of God and the mercy and compassion of his Son, Jesus.71

70Ibid., 581

71Ibid.
At the end of the pastoral letter the archbishop addressed the problem of the enactment of capital punishment. Archbishop Sanchez quotes the previous document of the U.S. bishops in its statements not favoring the reinstatement of the death penalty as being against the sacredness of life.

It seems to me that given the anti-life mentality in our country, we need to advocate for life and proclaim once again that God is the creator of life and that all life is sacred and a gift. As Catholic Christians we are called to stop the erosion of life through respect for life. This respect for life causes us to seek ways beyond retribution to the rehabilitation of body and spirit.\(^2\)

The term advocate is used by archbishop Sanchez in regard to the lives of the inmates convicted of capital crimes. Their lives are sacred. Consistent with his teaching on the purpose of the correctional system, he also advocates that even those who have committed violent crime are to receive treatment beyond mere retribution but move beyond this to rehabilitation of body and spirit.

On April 27, 1981, Bishop Ernest Unterkoefler of Charleston, S. C. testified before the U.S. Senate Judiciary Committee on behalf of the U.S. Catholic Conference. His testimony was a short summary of the November 13, 1980 document stating the inappropriateness of capital punishment. The testimony was given in lieu of a Senate bill which would establish procedures which should clear the way for capital punishment in certain federal criminal cases. The bishop reviewed the case that capital punishment really did not meet the standards of the three purposes of punishment as well as reviewed the inherent problems which would ensue with executions (also contained in the

\(^2\)Ibid., 582.
This testimony is another instance of advocacy for life and for inmates' lives specifically. Once again, it adds to a now clear emerging pattern that a criminal's life is sacred, even the life of criminals committing capital crimes.

In 1980 Miami suffered race riots. One year after the riots Archbishop Edward McCarthy of Miami published a pastoral letter on racism and on the many problems which divide the Miami community. In this pastoral letter the archbishop touches on the criminal justice system and the prison system. The following is from the letter.

The Christian associated with the prison system, again, has a great challenge in the midst of a most difficult profession to humanize the jails, seeing Christ in the prisoner—"I was in prison and you came to visit me" (Mt. 25:26)—doing his or her best to assure that the prison experience is not only one of penalty and retribution but one of rehabilitation as well. Devastation of human dignity and the human spirit only commits the prisoner more firmly rather than freeing him from his miserable condition.

This short paragraph emphasizes the need of the prison systems to move beyond penalty and retribution. Rehabilitation is to be part of the goals of the prison system. The archbishop also speaks of protecting human dignity and the human spirit from inhumane prison conditions. This as well as the above two documents continue the voice of the American hierarchy advocating respect and compassion as well as justice for the imprisoned.

ORIGINS 1982:

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On March 5, 1982, the bishops of the State of Massachusetts wrote a short statement opposing the reinstatement of capital punishment in the state. The statement is a short review of the U.S. bishops’ statement opposing capital punishment issued in November, 1980. It reiterates the sacredness of human life, the inappropriateness of returning to the death sentence, and the inequities of the application of the death penalty to the minorities and the poor.\(^\text{75}\)

This was the only document in regard to prisoners during 1982. As was stated above it was an application of the national statement of November, 1980 advocating the respect of the human dignity of those inmates under the sentence of death.

**ORIGINS 1983:**

In a January 7\(^\text{th}\) pastoral letter on the problem of racism entitled ‘One People Under God” the problem of the criminal justice system and prisons was addressed by the Archbishop of Miami, Edward McCarthy. In this pastoral letter the archbishop linked the criminal justice system with the problem of racism.

In an effort to fight crime, time and money are invested in the solutions of more prisons, more police, more judges. While common sense tells us that these solutions are needed, faith tells us that these are immediate and not long-range, punitive and not preventive; they attack the symptoms and not the basic problems. If we put our efforts exclusively into more “protection” solutions, we only neglect the root problems. We commit the sin of racism by neglect because we avoid involvement in issues such as housing, employment, gerrymandering of voting districts, health care and affirmative action.

The virus of racism, whether conscious or unconscious, only makes the task of the criminal justice system more

\(^\text{75}\)“Bishops Oppose Return to Death Penalty,” *Origins* 11, 40 (March 18, 1982), 637f.
difficult. It alienates whole sections of society, it saps the strength of the system by weakening respect for it, the respect that is essential to a democratic and just society. I urge our Catholic men and women who work in this system to be the yeast that will permeate the system and strengthen it.76

In the above quote the archbishop asks that we look deeper into the causes of crime, rather than just do preventive maintenance, such as building more prisons. Housing, jobs, health care and the like are important factors in human life. When people are deprived of these or are discriminated against having opportunity because of race, then the temptation to possess and to have outside the law becomes more prevalent. Racism complicates and blurs the image of justice in our nation. The archbishop calls on Catholic men and women to be change agents in this system. He is asking them to be advocates for those caught up in a nation and a system which is racist.77

On January 27, 1983 the New York state bishops offered a statement for the reformation of the criminal justice system. In this statement they note that there is a need to impact this system with Christian principles of justice and forgiveness. The Church is to work in partnership with full participation by the segments of civil society, i.e. business, government, labor. The bishops in speaking on forgiveness note that forgiveness does not mean indulgence to violence, injury or insult. Part of forgiveness is reparation, compensation and satisfaction.78


77Ibid., 512ff.

78“Reforming the Criminal Justice System,” Origins 12, 36 (February 17, 1983), 569ff.
The New York State Correctional System consists of the poor and the marginalized. In the words of the bishops this section of our society also needs to be addressed.

In summary, in our state prisons today we find substantial over crowding. We find a prison population that is generally undereducated and negatively impacted by the socio-economic conditions that prevail in today's society. This group inordinately consists of members of the minority population and significant number are first-time convictions for non-violent crimes. For the system to be fully responsive to the needs of society and to those of the inmate population, changes are necessary.\(^\text{79}\)

In this statement the New York bishops criticize the simplistic philosophy of ‘getting tough on crime’. Mandatory sentencing with longer sentences and decreasing parole opportunities and good time have built a prison population faster than the crime rate.

The bishops speak to three different areas of the criminal justice system. The first two deal with alternative approaches for ‘before trial’ and for ‘after conviction’ situations. These recommendations given by the bishops are practical and considerate of the poor of society, of the needs of a better sense of justice, and the need to relieve the correctional system of the stress of over crowding. As regards to the correctional system itself the bishops promote the following recommendations.\(^\text{80}\)

— an atmosphere of restraint and self-improvement is encouraged through programs which promote independence and personal development;

\(^{79}\text{Ibid., 571.}\)

\(^{80}\text{Ibid., 569ff.}\)
—training and education programs which help prepare prisoners for productive lives;
— the spiritual needs of prisoners and workers are ministered to;
— adequate medical and psychiatric care is available to all prisoners;
— humane living conditions exist for the prisoners and prisoners are confined at a location as near as is possible to their families and friends.\textsuperscript{81}

This statement by the bishops of New York is in line with the national recommendations made previously. No new items have been added by the bishops. Nevertheless it is a statement of advocacy for the offender and for the correctional system. The bishops are well aware of the injustices that are done to the poor and to the minorities. Their recommendations regarding the rest of the criminal justice system outside of the prison were important statements of advocating fairness in the system outside of the prisons. The bishops also comment on the inappropriateness of capital punishment and express their opposition to it.\textsuperscript{82}

On April 18, 1983, the bishops of Oklahoma City and Tulsa gave a statement of their opposition to the death penalty. Their reasons for this followed closely the stance of U. S. Bishops given on November, 1980. These reasons are summarized in the following paragraph. First, the teaching of the New Testament emphasizes repentance, forgiveness and reconciliation, not revenge. Second, the deterrent value of executions is doubtful and long term incarceration in a maximum security facility would probably have the same effect which seems to be not much. Third is the real possibility of executing the wrong

\textsuperscript{81}Ibid., 573.
\textsuperscript{82}Ibid., 569ff.
person. Fourth, the problem of racism and poverty renders equity difficult if not impossible to attain. Fifth, the execution of the felon does not really assist the family members. If there was the will in society, the perpetrator would be forced into restitution to the victim over a long period of time.

Finally, the bishops ask an interesting question about lethal injections. What does this do to the health professionals who are to administer the injections? Does the ease and comfort of lethal injections wash away the brutality of an execution, thus allowing it to be more palatable?83

On December 6, 1983, Cardinal Joseph Bernardin of Chicago delivered an address at Fordham University on the question of life. In this address the Cardinal stressed the need to have a seamless coherent teaching supporting life by the Catholic Church. He supported the position of the national hierarchy in their opposition to the enactment of the death penalty.84

Second, in the case of capital punishment, there has been a shift at the level of pastoral practice. While not denying the classical position, found in the writing of Thomas Aquinas and other authors, that the state has the right to employ capital punishment, the action of Catholic bishops and Popes Paul VI and John Paul II has been directed against the exercise of that right by the state. The argument has been that more humane methods of defending the society exist and should be used. Such humanitarian concern lies behind the policy position of the National Conference of Catholic Bishops against capital punishment, the opposition expressed by individual bishops in their


home states against reinstating the death penalty, and the extraordinary interventions of Pope John Paul II and the Florida bishops seeking to prevent the execution in Florida last week.\textsuperscript{85}

In this quote the Cardinal supported the consistent advocacy of the bishops of the United States. He also brought to the fore Pope Paul VI’s and John Paul II’s opposition to the state in the exercise of their right to enact executions.

The advocacy of the dignity of inmates was continued by the pastoral of the Archbishop of Miami, the bishops of New York, the defense of the life of the inmate by Cardinal Bernardin, and the letters by the bishops of Oklahoma. This year aligns itself with the now well established tradition of the dignity of the incarcerated, the need for justice and reconciliation, and the need for prison reform. In this year the factors of racism and economic deprivation were also part of this challenge of the Church to be an advocate to the prison system.

\textbf{ORIGINS 1984:}

On March 22, 1984, the United States Catholic Conference Administrative Board issued a statement on the political and public issues of the day. In this statement a broad range of topics are covered by the bishops. In this list capital punishment was one issue that was mentioned for our society to listen to.

In view of our commitment to the value and dignity of human life, we oppose capital punishment. We believe that a return to the use of the death penalty is leading to, indeed can only lead to, further erosion of respect for life in our society. We do not question society’s right to punish the offender, but we believe that there are better approaches to

\textsuperscript{85}Ibid., 492.
protecting our people from violent crimes than resorting to executions. In its application the death penalty has been discriminatory toward the poor, the indigent and racial minorities. Our society should reject the death penalty and seek methods of dealing with violent crime which are more consistent with the gospel vision of respect for life and Christ’s message of healing love.  

This is a short but succinct summary of the bishops’ advocacy positions on the life of the condemned felon. It also speaks of the unfairness of its application and the concern that the increasing application of capital punishment also harms our society, rendering it insensitive to the areas of human life and its prime importance in social life.

On May 31st Origins published the pastoral letter of the eight bishops of Louisiana entitled ‘Confronting With Courageous Hearts”. In this letter the bishops spoke about the criminal justice system in the state. They praised the work that Louisiana had begun doing with convicted felons and directed their fellow Catholics to get involved.

In Louisiana much has been done to better our criminal justice system. We urge continuous efforts in this regard. Already our state has chosen alternatives to imprisonment which appear successful, such as halfway houses, drug-and alcohol-abuse centers and community-service sentencing. We support these alternatives and suggest that others be sought.

All of us can further show our Christian concern by visiting and communicating with prisoners and their families and assuring that prisoners and their families receive the spiritual ministry of the Church, as well as those public servants who serve the criminal justice system.

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87 Confronting With Courageous Hearts,” Origins 14, 3 (May 31, 1984), 47.
We need to remind ourselves that the work of advocacy is not just pointing out wrongs or showing what needs to be done. But it is also to give praise and support when things are done right and reform begins to take shape. This the Louisiana bishops did and they asked the average Catholic to support this by getting involved with the prisoners and their families by visits and other areas of spiritual ministry. This is an excellent example of positive advocacy not just for the inmate but for the correctional system.

In a joint pastoral letter by Bishop James D. Niedergeses of Nashville and J. Francis Stafford of Memphis the bishops took a stand against the use of capital punishment. This letter basically states the reasons we have seen before. However, they offer a few insights which deepen the religious perspective. The use of capital punishment is clear in the Old Testament. One could be executed for many different criminal and/or immoral activities. To apply the Old Testament to modern life straight from the text is something that no one wants to do, e.g. execution for adultery. This is so, the bishops say, because western society has developed beyond a tribal or clan structure. Many times the Old Testament is modified to interpret what to apply in a correct and feasible manner in modern society. Conditions of life and society can change so profoundly in later ages as to demand an interpretation to deal with the change in society. The Jewish faith itself has done this as well. The letter gives an excellent demonstration of how Judaism moved from a society which supported capital punishment to one in which the death penalty becomes very difficult to apply. The Jewish oral tradition (which ran parallel to the written Torah) began to develop a deeper respect for human life and its
sacredness before God. By the time the Talmud was written the clear commands for
execution are muted.

This argumentation plus the emphasis on forgiveness and reconciliation even with
one’s persecutors and enemies began to move people to finding peace instead of revenge.
Although the New Testament does not condemn capital punishment as the bishops
conclude, they do see that the movement of reconciliation and forgiveness sets the stage
for most modern societies to do away with this sentence, because they have the capacity
to render the perpetrator harmless for as long as society wishes. The way of Jesus is the
way of non-violence. His disciples are not to live by the sword. Violence for the
Christian is to be the avenue of last resort. Thus for the bishops of Tennessee the New
Testament leads us to the ‘presumption in favor of life’.

Recently the Catholic bishops in the United States addressed this question. Jesus’ witness calls us always to
love our neighbor and leads us to the presumption which
binds all Christians: We should do no harm to our
neighbors; how we treat our enemy is the key test of
whether we love our neighbor; and the possibility of taking
even one human life is a prospect we should consider in
fear and trembling.

The cutting edge of this presumption against our doing
violence, especially lethal violence, demands that we
oppose the death penalty. We give a firm no to legalized
executions: It is a judgment which flows from the new
commandment of Jesus. Hence, we would be negligent in
our duty as bishops if we did not speak out! We are
convinced that capital punishment does not cultivate an
attitude of respect for the sanctity of human life in our
society.

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Do violence and capital punishment cancel one another out? Or rather do they breed more of their own kind?\textsuperscript{89}

The challenge the bishops put to us is do we accept the penalty of death for our neighbor whom we may know and respect. The bishops tell us that Jesus did not exclude anyone from his forgiveness and mercy. Do we then have the right to exclude a murderer from being our “neighbor”?\textsuperscript{90}

Finally the bishops address the needs of the families caught up in the cycle of crime and violence. The Church and society cannot forget the victims and their families, they cannot forget the need of restitution. Also, they cannot forget the needs of the families of felons.\textsuperscript{90}

This letter is one of advocacy for the convicted felon, especially those under the sentence of death. The uniqueness of this letter is the attention it pays to the concept of development and growth in the Judeo-Christian tradition, which tradition in its present state challenges us to act in favor of life in all circumstances.

On June 12, 1984, the Auxiliary Bishop Eugene Moreno presented to the Democratic Party Platform Committee fourteen public policy questions. In this statement, which was also to be given to the Republican Party, the opposition to capital punishment was addressed. This, however, was only in a very short summary, stating that

\textsuperscript{89}Ibid., 69.

\textsuperscript{90}Ibid., 70-1.
the re-enactment of the death penalty only leads to a further erosion of respect for life in our nation. 91

On November 26, 1984, the State of Florida’s eight Roman Catholic bishops and eighteen other leaders of Christian communities wrote a letter outlining the moral consequences of capital punishment. This letter reiterates many of the arguments that have been developed above. It speaks about the acute poverty of death row inmates and their inability to get qualified volunteers to help them in their appeals process. It also addresses the sacredness and dignity of human life as not from human rectitude or society’s institutions but from God. The violent taking of a sacred life erodes the respect for life in our society. This letter also shows that the strong use of the death penalty in the Old Testament has been muted by continuous reflection by the rabbis down through the centuries. It also uses areas of the New Testament where the action of Jesus is clearly one of mercy and forgiveness in regard to wrong doing e.g. Jn. 8, 3-11. Finally the letter addresses the topic of the need for the offender to have the opportunity to repent and to restore in some fashion the damage that he/she has done, even though very often this is not able to be done adequately. The death penalty excludes this opportunity which is part of justice. Although this letter reiterates many of the arguments that have been posited before, it is ecumenical in nature and adds to the tradition of the Church as an advocate on behalf of the incarcerated, especially those facing capital sentences. 92


In 1984 there were a number of statements from the bishops on behalf of the imprisoned especially those under the death sentence. The presentation of the development of tradition was an insight that demonstrated how tradition can bring us to a point where a former law becomes too harsh or inappropriate. Finally, in 1984 there was advocacy for the families of victims and perpetrators, emphasizing the need of restoration, reconciliation, and spiritual aid from the Church.

ORIGINS 1985:

The twenty-six (26) Bishops of California on September 19, 1985, made a statement in favor of the abolition of the death penalty because the state of California would begin executions by the end of the year. The letter, which was not lengthy, summarized the arguments made previously by the United States bishops and by other state conferences of bishops. The following points were stated by the bishops. First, the Catholic Church traditionally affirms the right of the state to inflict the death penalty subject to two strict conditions. The first condition is that it would fulfill the purposes of punishment, which are restoration of justice, reform of the perpetrator and act as a deterrent against the perpetration of the type of crime committed. The second condition is that the death penalty is necessary for the above purposes to be met.

In November, 1980, the United States bishop’s statement on capital punishment stated that the death penalty did not meet the purposes of punishment, nor was it necessary to inflict capital punishment to achieve the ends of punishment.  

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The following quote from the California bishops states what is a good summary of the United States bishops’ reasons for opposing the imposition of the death penalty.

Some of these reasons have to do with problems inherent in the practice of capital punishment, such as (1) denial of any possibility of reform or of making compensation, (2) the possibility of mistake by the execution of an innocent person, (3) the long and unavoidable delays which diminish the effectiveness of capital punishment as a deterrent and can produce aimlessness, fear and despair; the extreme anguish which an execution brings, not only for the criminal, but for his family, (4) those who perform or witness the execution; the unhealthy publicity and considerable acrimony in public discussion attracted by executions; and, finally (5) the not-unfounded belief that many convicted criminals are sentenced to death in an unfair and discriminatory manner; e.g., more than 50% percent of those on death row are minorities, virtually all of them are poor.

Other reasons proposed by the 1980 statement have to do with important values that would be promoted by the abolition of capital punishment; (1) It would send a message that the cycle of violence can be broken, that we need not take life for life, that we can envisage more humane and more hopeful and effective responses to the growth of violent crime. (2) It would be a manifestation of our belief in the unique worth and dignity of each person from the moment of conception, a creature made in the image and likeness of God. (3) Abolition would give further testimony to our conviction that God is indeed the Lord of life, a belief we share with the Judaic and Islamic traditions, (4) It would be more consonant with the example of Jesus, who both taught and practiced the forgiveness of injustice and who came “to give his life as a ransom for many” (Mk.10:45).  

This short document by the California bishops is a witness to the people of California concerning the evil of capital punishment. The above quote is again an

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94Ibid., 302-3
advocacy by the Church expressed in the voice of these bishops that the lives of convicted felons are lives which have been made in the image of God, and this life is to be respected and protected without damaging the common good or violating justice.

In November 11-15, 1985, the National Conference of Catholic Bishops met in Washington D. C. to give a pastoral plan for pro-life activities. In the document there were only two references to the evil of capital punishment and these were made in passing, adding no new insights to what has been dealt with previously.95

On December 18, 1985, Archbishop Roger M. Mahony of Los Angeles spoke to a meeting of the local Jewish Federation Council and the Jewish Federation Council in Los Angeles. In this talk the Archbishop referred to the hopeful relations that exist between the American Catholics and American Jews. Archbishop Mahoney then spoke of areas of dialogue that the two traditions should be involved in. One of these issues of dialogue was capital punishment. It is an issue which both traditions are not to avoid or shrink from in their dialogues and pastoral areas. The Archbishop stated that, although the average Roman Catholic favors the death penalty, the hierarchy is opposed to its application and sees this issue as an issue in which we need to give an unambiguous witness to the sacredness of life. This short talk is a talk in which he expressed openness to the Jewish Community in areas that impact humanity and human life. The advocacy to life and the life of the felon is stressed particularly in this talk, asking the Jewish

community to join with the Church, even in this controversial area of capital punishment.96

The year 1985 had a few episcopal statements dealing with the death penalty. The Church and the bishops remain firm in their upholding the sacredness of human life even that of a murderer, despite opposition from large segments of the Catholic laity.

**ORIGINS 1986:**

On October 4, 1986, Cardinal Joseph Bernardin of Chicago outlined a consistent ethic on life at a conference at the University of Portland. The center of this ethic is the sacredness of human life which is not just a private matter but has social and public presence which society is obliged to honor and protect. Capital punishment is mentioned in this presentation. Although it (capital punishment) was at one time allowable in certain situations, in modern times the moral restrictions on the application of capital punishment have become more severe.

Let me now explain in greater depth the theological basis and strategic value of the consistent ethic. Catholic teaching is based on two truths about the human person: Human life is both sacred and social. Because we esteem human life as sacred, we have a duty to protect and foster it at all stages of development from conception to natural death and in all circumstances. Because we acknowledge that human life is also social, society must protect and foster it.

Precisely because life is sacred, the taking of even one life is a momentous event. Traditional Catholic teaching has allowed the taking of human life in particular situations by way of exception—for example, in self-defense and capital punishment. In recent decades, however, the

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The Cardinal stated that, although all the issues such as capital punishment, war, abortion, etc, are different, they have one principle which undergirds these issues and links them together. This principle is that human life is sacred and is to be protected in each and every instance. Thus, there are different principles and strategies, but there is only one underlying direction which is to protect life.

This was the only episcopal statement in 1986. It shows the increasing advocacy of life in a pluralistic society. It is presented as a challenge to all to deepen their reflection on all the issues which impinge on the sacredness of the human being, of which capital punishment is one of those important issues.  

ORIGINS 1987:

On January 9, 1987 the Pennsylvania bishops issued a short statement opposing the death penalty. The Pennsylvania bishops note three points in their statement. First, other means for preventing crime must be employed than the death penalty. Second, every possible effort must be made to help those who are in prison to become productive citizens. Third, they (inmates) are to help with medical, financial and spiritual aid for the victims of crimes. The concerns of society are to be justice and forgiveness not vengeance. In this very short statement the Pennsylvania bishops are advocates not only

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98Ibid., 345ff.
for the life of the felon but also for the care of their victims. This statement follows the
now established modern tradition of the condemnation of capital punishment as
inappropriate.99

On March 3, 1987, the bishops of Ohio released a statement on the death penalty. Like the previous statement from the bishops of Pennsylvania there was fundamentally
nothing different from what the other state hierarchies and the national hierarchy had
stated in this regard. However, there are a few points of interest in their statement. The
statement did have a good review of how the Old Testament and capital punishment
should be interpreted. Although many times ancient Israel does not speak to the modern
day, it does speak to it in that vengeance is not to be the motivation of execution, but
rather justice and the protection of society.100 Also the same approach was used with the
Church’s own tradition which allowed the use of the death penalty.

In the first centuries of the Church Christians faced the
death penalty as victims, not as executioners. Since they
were considered dangerous outsiders, they were often, like
their Lord before them, put to death unjustly, in time an
outlook favorable to the death penalty developed in the
Church’s teaching. The perspective of this teaching was
that, given the existence of the death penalty in
contemporary legal practice, the exercise of such a penalty
must be tempered and limited, that it must meet strict
criteria of justice in punishment. The Church insisted that
the person to be executed be truly guilty of serious crime;
that the sentence be proportional to the crime; that the
punishment not be executed in a vindictive spirit; that trial
and sentence be carried out by none other than the proper

579ff.

authority; that the death penalty not be employed when other options were available to protect society and restore order. The Church was not so much mandating the use of the death penalty as tolerating a policy which society considered normal and placing a limitation on its exercise.\textsuperscript{101}

In this statement the bishops also advocate for the reform of the correctional system and for criminal justice personnel who themselves can be demeaned by violent crime. The bishops of Ohio ask that the Catholics in the pew begin to be active in this issue of life and to understand its linkage with other areas which ask their help in the defense of life. Finally, this statement has a good paragraph of Church advocacy which is quoted below.

In such a context it is important to remember that all persons have value that comes from God even when they might seem utterly lacking in any value. Therefore, persons convicted of crimes must not be treated as though they were not persons, but only objects of fear and vengeance. No human life, no matter how wretched or how miserable, no matter how sinful or how lacking in love, is without value. Precisely when persons appear worthless and expendable and when people are tempted to destroy them, the Church must speak out in defense of their lives.\textsuperscript{102}

A statement released by the United States Catholic Conference Administration Board on October 14, 1987 spoke to the need of the Church to participate in public affairs, especially in those issues which touch upon the serious moral values. The statement lists those areas in which the Church takes a stand and in that list is capital

\textsuperscript{101}Ibid.,727.

\textsuperscript{102}Ibid.
punishment. This issue is seen then as a major area which the Church sees itself involved in, not just privately, but publically. Although the statement itself is only a paragraph, it is placed along side other advocacy issues which are seen as major areas and arenas for the Church to speak out on publically asking for political change.  

This statement is the last statement in 1987 which saw bishops from two more states opposing the death penalty. By 1987 the issues are fairly well articulated and the tradition of opposition to the death penalty and in favor of prison reform are clearly and officially tied to the pro-life position of advocacy in the Catholic Church in the United States.

ORIGINS 1988:

On May 10, 1988, the United States Catholic Conference submitted testimony to the platform committee of the Democratic party and would submit an identical report to the Republican platform committee. In this testimony there is a short reference to the United States Bishops’ opposition to the death penalty as it leads to a further erosion of the respect of life in our society. This reference is only about two to three sentences long, just referencing their opposition to the destruction of life via execution. This was the only statement involving corrections or capital punishment during 1988 and it merely reiterated the United States Church’s advocacy position against executions. 

ORIGINS 1989:

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On Good Friday of 1989 the Missouri bishops issued a statement opposing the return of the death penalty to the state. It stated that the deterrent of capital punishment was not effective. The bishops referenced a study done in 1953 by William C. Bailey reinforcing this position, which prompted the bishops to state that unfortunately vengeance now becomes the motive for executions, especially when other sentences could handle the question of justice just as adequately. The quest for vengeance is not in the spirit of the gospel and is not worthy of the Christian who is to be an advocate of forgiveness and reconciliation. The Missouri bishops add their name to the growing list of state hierarchies which advocate for the lives of convicted felons.105

**ORIGINS 1990:**

On March 20, 1990, Cardinal Joseph Bernardin delivered an address at Georgetown University where he again reiterated the need for a consistent life ethic. In this address he once again stated his advocacy for the convicted felon under capital sentence. The Cardinal, aware of the opinion of the American people favoring the death sentence, urged perseverance through a hard and long struggle.106

In the fall of 1990 the Florida bishops issued a statement of opposition to the death penalty and a need to have justice and punishment be consistent with the gospel of the Lord.107 These were the only two statements in 1990.

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107“Time to Break the Cycle of Violence,” *Origins* 20,16 (September 27, 1990), 263f.
**ORIGINS 1991:**

On October 17, 1991, United States Catholic Conference Administrative Board released a statement on political responsibility. In this statement a number of issues involving moral choices in the public arena were brought forward. Among them was the reiteration of the Bishops’ opposition to the reinstatement of capital punishment. The statement repudiates the reinstatement of the death penalty as helping to erode the respect for life in this nation, and being discriminatory to the poor, the indigent and racial minorities. The statement encouraged our society to seek other avenues of justice than the taking of human life.108

This document was the only document of advocacy which touched upon the incarcerated under capital sentences.

**ORIGINS 1992:**

On January 3, 1992, an ecumenical statement was drawn up opposing the enactment of the death sentence. Among the signers of this document was Catholic Bishop Thomas O’Brien of Phoenix. The arguments that were put forward were that it acts in no way as a deterrent to further crime and that the goals of redemptive, reformative and restorative punishment which are to be primary, are clearly not obtained. The enactment of the death sentence makes a statement counter to the teaching of Jesus Christ and other historical examples that the human being is beyond redemption.109

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this same date the bishops of Texas, along with Pope John Paul II, acted as advocates for a man convicted of murder of a 76 year old nun.\textsuperscript{110}

The above were the only two areas of advocacy involving convicted felons.

\textbf{ORIGINS 1993:}

There were no major statements made by the hierarchy during this year.

\textbf{ORIGINS 1994:}

On June 2, 1994, the Louisiana Bishops condemned the use of the death penalty as inappropriate and contributing to the culture of death. They stated that the rising number of executions in the state have in no way deterred violent crime. As a matter of fact violent crime has increased in the state. The bishops cited the ever present human error in the enactment of human justice which leaves open the real possibility of executing innocent people. The statement by the Louisiana bishops continued the tradition of the American hierarchy advocating respect for the life of the convicted felons. That punishment, even life imprisonment, is to be enacted if justice requires it, but human life has a dignity and an inherent worth that prevents its destruction.\textsuperscript{111}

On September 13, 1994, an interreligious group, including Bishop Walter Sullivan from the state of Virginia, challenged the governor's commission in their proposal to eliminate the parole of felons in Virginia. The statement challenged the commission on the basis that this action in no way helps the victims or their families; and it does not give

\textsuperscript{110}"Stay of Execution Urged," \textit{Origins} 21,32 (January 16, 1992), 517.

\textsuperscript{111}"Capital Punishment: Plunging Into a Culture of Violence," \textit{Origins} 24,16 (June 3, 1994), 95f.
victims or their families a sense of security. Nor does it reduce crime. Merely increasing punishment for punishment sake does nothing positive. The interreligious group insisted on recommendations which would reform the criminal justice system in terms of enacting measures which will go to the causes of criminal behavior and enact programs which will help to prevent it.\footnote{Reform of the criminal justice system must be based on respect for the God-given dignity of every human being and on a belief that many people are able to change. This belief requires programs which teach alternatives to violence, personal responsibility and marketable skills. Most criminals eventually return to society. It is in our own best interests to equip them to be productive citizens. For example, 80 percent of Virginia’s inmates have substance abuse problems. Without treatment, 80 percent will return to prison within three years; but with substance abuse treatment less than 25 percent will return.\footnote{This statement acts as advocacy statement for the incarcerated. Using common sense and statistics, it states that it is to society’s benefit to act on behalf of the convicted felon. The document challenges the criminal justice system to base their priorities and programs on the dignity of the human person, and to choose programs which offer the possibility of change from the lifestyles of criminal behavior. 1994 was a year which continued the involvement of the hierarchy in the correctional and criminal justice systems. The bishops continue to act as advocates for reform of these systems and to defend the dignity of human life even among those who have committed some of the most heinous crimes.}}

\footnote{"Governor’s Parole Proposals Challenged,” \textit{Origins} 24,16 (September 29, 1994), 278f.}

\footnote{Ibid., 279.}
ORIGINS 1995:

On January 19, 1995, during the homily at the Red Mass in Phoenix, Arizona, Bishop Ricardo Ramirez of Las Cruces, New Mexico spoke of the importance of the legal profession in its ability to impact the legality and ethics of our society. In this homily the Bishop gave a plea for reform and the instituting of programs which will help the inmate make a positive turn around in his or her life. The following is a quote from the bishop’s homily.\textsuperscript{114}

I find it further unsettling that the vast majority of those in jails and prisons are minorities and poor. I find it painful that in our legal system those who can afford excellent legal counsel have a better chance of staying out of jails and prisons. For a long time I have been an advocate for prison reform. I am aware that many first offenders become second, third and fourth offenders, and become part of the subculture of penal institutions. We just haven’t found a way to rehabilitate the errant and cure people permanently of drug, alcohol and other addictions that get them into prison in the first place. Punishment, however, is but one part of justice; rehabilitation has to accompany that penal aspect if the system is going to be successful.

Prison inmates may be guilty of horrible crimes, but they are still people. In Dona Ana County, where Las Cruces is, we have a jail that comes close to the Turkish prison in the film, Midnight Express. We have a brand new, spotless animal shelter.\textsuperscript{115}

These few short sentences clearly advocate for the inmate and for the correctional system. The sentence referring to the new animal shelter is an incisive statement for the


\textsuperscript{115}Ibid., 614.
conscience of a society which many times needs to hear the prophetic voice of the Apostles in regard to its priorities and values.

Later in the same month (March 9, 1995) there was published a statement by the bishops of North Dakota opposing the enactment of the death penalty. This short statement covered many of the reasons given by other state hierarchies and the national hierarchy. These bishops continued what is now a long chain of state hierarchies opposing capital punishment, and again advocated the defense of human life even if the human life is one who has committed heinous crimes against his or her fellows and society.¹¹⁶

On March 25, 1995, Pope John Paul II issued the encyclical, “Evangelium Vitae,” which addresses the concerns of human life. The encyclical clearly supports and teaches the sacredness of human life which is given to each human person from the graciousness of God. Not only does the human being have an innate goodness from creation but has a higher calling than what this life offers. Further the human being is consecrated and made holy by the sacrifice of his Son. All human life stands, lives and moves in Divine Holiness and is transformed, and divinised by it.¹¹⁷ This encyclical is one which advocates the respect of life on all levels of living. Pope John Paul II, requesting input from the bishops of the world, issued his strong advocacy for human life by referencing


Rerum Novarum as establishing the Church’s right to speak to world on matters of social concern.

Just as a century ago it was the working classes which were oppressed in their fundamental rights and the Church very courageously came to their defense by proclaiming the sacrosanct rights of the worker as a person, so now, when another category of persons is being oppressed in the fundamental right to life, the Church feels in duty bound to speak out with the same courage on behalf of those who have no voice. Hers is always the evangelical cry in defense of the world’s poor, those who are threatened and despised and whose human rights are violated.\(^{118}\)

The above is a clear statement of the Church’s role of advocacy for the poor, the marginalized, those who have no voice or have no franchise.

In regard to the question of capital punishment the Holy Father places this under the principles of defense of life. The Roman Pontiff states in general that the death penalty is an appropriate defense of another’s life, the family or the state. However, with the development of the modern penal system this appropriateness and the need to execute a convicted felon is very rare if not practically non-existent. The development of the modern penal system allows a fuller opportunity to fulfill the demands of punishment for the crime as well as offering the opportunity to the convicted felon to begin the work of conversion and rehabilitation.\(^{119}\)

The problem must be viewed in the context of a system of penal justice ever more in line with human dignity and thus, in the end, with God’s plan for man and society. The primary purpose of the punishment which society inflicts is

\(^{118}\text{Ibid., 692.}\)

\(^{119}\text{Ibid., 709.}\)
‘to redress the disorder caused by the offense.’ Public authority must redress the violation of personal and social rights by imposing on the offender an adequate punishment for the crime, as a condition for the offender to regain the exercise of his or her freedom. In this way authority also fulfills the purpose of defending public order and ensuring people’s safety, while at the same time offering the offender an incentive and help to change his or her behavior and be rehabilitated.

It is clear that for these purposes to be achieved, 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 nonexistent.

In any event, the principle set forth in the new Catechism of the Catholic Church remains valid: ‘If bloodless means are sufficient to defend human lives against an aggressor and to protect public order and safety of persons, public authority must limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity to the dignity of the human person’. 120

The momentous statement of the inappropriateness of capital punishment in developed society lends tremendous support to the American hierarchy in their position of advocating the removal of the death penalty as being against the dignity of the human person. The encyclical now positions the whole Church in advocating the respect of the dignity of the convicted felons, even those committing capital crimes.

In April 27, 1995, Bishop William S. Skylstad of Spokane, Washington outlined the goals of the Diocese for the year. In the document was the need to be of service to

120Ibid.
those inmates in the prison system and their families. The document goes on to state this service needs to be better organized than in the past. The ministry to the incarcerated needs the diocese’s support and participation. Again there is a message of advocacy as part of the ministry of the local Church.  

On May 17, 1995, Bishop David Thompson of Charleston, South Carolina wrote a statement advocating another course of action than capital punishment. The bishop stated that capital punishment is not a deterrent to capital crimes, and that allowing vengeance to inform our criminal justice system is a poor reason to mete out violent punishment. It allows another avenue for brutality to enter into our society. It is also vengeance which is enacted on the poor, indigent and minority populations of our country. In his advocacy of the convicted felon he mentions another victim that is brought about by capital punishment and that is the public conscience and the public’s respect for human life.  

On November 5, 1995, the United States Catholic Conference Administration Board issued a statement that asks the political life in America to respect the dignity of every person and to act in regard to the common good. One of the areas the bishops address is capital punishment and their opposition to it as being opposed to the basic dignity of the human person. The fifty-four members of the board of bishops advocate for the lives of convicted felons, whose human natures demand the dignity be respected


when the common good is preserved. This last statement on advocacy in the year of 1995 concludes a number of statements advocating for the life and dignity of those convicted of capital crimes. The highlight of this year was the papal statement in defense of the criminal’s life as an act of respect of his dignity. This encyclical reinforces, with the authority of Peter, the need and the correctness of advocacy for those convicted even of serious crimes.

ORIGINS 1996:

On September 9, 1996, Cardinal Joseph Bernardin spoke at Georgetown University about the need of the consistent and vigorous voice of ethics to the American public. In his address in the last section which addressed the sacredness of human life in culture, religion and politics, the Cardinal told us that we have no better guide in this area than the present Roman Pontiff, John Paul II. In the pope’s encyclical, *Evangelium Vitae*, the Cardinal tells us of the three different areas which need the defense of life. One of these is the inappropriateness of executing the convicted felon. Cardinal Bernadin states that the Roman Pontiff helps us to see and understand the defense of life across the board. Abortion, capital punishment and euthanasia are all different yet are to be systematically related under the ‘taking of life’. The following is from the Cardinal’s address.  

When we shift our focus in U. S. society from thinking about caring for life to defending life, there is hardly a better guide that Pope John Paul II’s encyclical “The

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Gospel of Life.” The Holy Father identified three issues—abortion, capital punishment and euthanasia—in his sweeping critique of what he describe as a creeping ‘culture of death.” Here again, even within the Catholic tradition these three issues have not been simply collapsed into one question. Capital punishment has not in the past been regarded as “unjust killing” in the way abortion and euthanasia have been.125

The statement of Cardinal Bernadin’s shows that capital punishment has been woven integrally in this defense and advocacy of life. This address by the Cardinal constitutes the only major statement in regard to corrections and capital sentencing in the year 1996.

**ORIGINS 1997:**

On February 13, 1997, the bishops of New Mexico gave a succinct statement advocating a reform of the prison system within the state. The statement expressed a number of concerns regarding the correctional system. The bishops realized that the correctional system is a basic good which protects and enacts punishment on those who have committed crimes, some very serious. But the system is to go beyond punishment. In light of the inmate’s basic human dignity the correctional system also needs to be changed.126

At the same time, our Christian tradition holds that the human person is basically good, having been created in the image and likeness of God, and that everyone is in need of forgiveness and redemption. There is something good in all

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125Ibid., 241-2.

persons, including offenders, and all need to be given the opportunity to reform their lives.\textsuperscript{127}

The bishops went on to state that programs which offer effective rehabilitation are those which truly benefit not only the inmates and their families, but also society itself, saving it money by lessening the rate of recidivism and returning a non-destructive person to society.

Another area which the bishops addressed is the privatizing of prisons. When profit enters into the correctional system there is a danger of the dilution of rehabilitation programs. Also, with the profit motive there is the danger of lower wages to the workers and a danger in cutting back safety and security standards, leading to jeopardy in the jails and in the immediate environment. The bishops also stated their opposition to moving inmates out of the state. This removal of the inmate from the state endangers his/her opportunity for programs of reform and rehabilitation. In regard to the death penalty the bishops in their statement opposed this sentence as not only disrespecting the value and dignity of human life but also as contributing to the further erosion of the respect for life in our society.\textsuperscript{128}

Keeping in mind the observations the bishops have given in this document, they put forward seven practical recommendations for the correctional system.

1. Expand treatment for low-risk offenders in a community-based setting wherever possible.
2. We recommend that there be a separation between the violent and nonviolent offenders as well as a separation of

\textsuperscript{127}Ibid., 587.

\textsuperscript{128}Ibid.
those inmates committed to rehabilitation from those who show no interest in reform. Models of therapeutic communities should be fostered.

3. Viable education, as well as behavior modification and treatment programs, needs to be made available to those who are willing to commit themselves to them.

4. Effective drug and alcohol rehabilitation programs need to be in place if we are to lessen the rate of recidivism. Twelve-step programs have proven effective around the country, and we urge that these programs be made available to all inmates.

5. The state needs to commit itself to contribute to a successful transition of a released inmate to his or her family community. Included in this are would-be considerations regarding employment, housing and further education.

6. The Corrections Department should seriously consider developing a victim-awareness program inside the prisons as well as in our communities. Victim awareness programs respond to the needs of victims and contribute to the process of healing for the victim and reformation of the offender.

7. We call for a dialogue between officials of the New Mexico Department of Corrections and religious leaders of the state in order to promote a more collaborative relationship. The exchange would include such areas as sensitivity for religious diversity and other issues of mutual concern.\textsuperscript{129}

The statement concluded by reminding us that not only was the Christ an abused prisoner under the death penalty but that his heart and mind are with those in prison asking for Christian solace (Mt. 25).

This short but comprehensive statement by the bishops of New Mexico is a clear instance of advocacy for not only the inmate, but also of the correctional system and society.

\textsuperscript{129}Ibid., 587-8.
In the June 26, 1997 issue of Origins four letters of bishops were published in reference to the Timothy McVeigh trial in Denver in which he was found guilty. The four bishops (Archbishop Charles Chaput, Denver; Archbishop Eusibus Beltran, Oklahoma City; Bishop William Skylstad, Spokane; Archbishop Justin Rigali, St. Louis) asked that the death penalty not be imposed on Timothy McVeigh. The bishops stated that, what was truly one of the most heinous crimes committed on United States soil, still was not able to destroy the inherent God given dignity of his humanity. To destroy his life is to disrespect a humanity which is still to be respected as sacred created from the hand of God. This advocacy for humanity is not to be restricted to certain situations or cases. The bishops advocate for his life. The execution of Timothy McVeigh does not protect or serve the common good, protect society, or deter criminal activity. It serves to heed the spirit of revenge. The bishops not only act as advocates for Timothy McVeigh’s life, but also for the spiritual well being of our society, which needs to transcend anger and revenge. Society needs to carry out punishment which is just without the destruction of human life.  

On September 8, 1997, Pope John Paul II promulgated the definitive Latin edition of the Catechism of the Catholic Church. Cardinal Joseph Ratzinger, prefect of the Congregation for the Doctrine of the Faith and co-ordinator of the Latin revision, gave a list of changes which were to be incorporated in the previous edition. Among the changes was a more restricted statement on the use of capital punishment. The document references “Evangelium Vitæ” and sees the use of capital punishment is very rare if not

practically non-existent. The reason for this strong stricture of the use of the death penalty is that today’s society is able to render the perpetrator incapable of doing harm. With this important fact the focus can shift to enacting justice more in keeping with respect for human dignity and the hope of one redeeming him or herself. The following is the correction to be placed in the final edition of the Catechism.\textsuperscript{131}

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, nonlethal 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 with 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 definitively 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.\textsuperscript{132}

On October 1, 1997, the three bishops of dioceses in the state of Colorado voiced their opposition to the execution of one Gary Davis, the first felon to be executed in Colorado in thirty years. The bishops stated the sacredness and dignity of the human being which is permanent despite the evil and wrong doing a person may do.

From their very beginning, the Scriptures affirm the intrinsic goodness of every human life. Created in the image and likeness of God, each individual possesses the

\textsuperscript{131}“Vatican List of Catechism Changes,” *Origins* 27, 15 (September 25, 1997), 257ff.

\textsuperscript{132}Ibid., 261.
dignity of a person, who is not just a something, but a someone. Whether our acts are good or evil, we remain brothers and sisters. The Church has always taught that Jesus died for all of humanity and that no person will ever exist for whom he did not suffer. This view of the human person ultimately guides us in our teaching on capital punishment.\textsuperscript{133}

This statement also includes John Paul II's teaching of the inappropriateness of the use of the death penalty in modern society. The Colorado bishops challenged the people of the state to act with mercy and respect for life. They act as advocates for the life of Gary Davis before the governor of Colorado in asking him to stop the execution.\textsuperscript{134}

In the year of 1997, the strong advocacy for life and the opposition to the destruction of the lives of convicted felons continue. Added to this tradition is now a strong position for the dignity of the convicted person, contained within the teaching of the Universal Church. The tradition is being specifically revised in favor of advocacy of the life of the felon.

**ORIGINS 1998:**

On November 18, 1998, the U. S. Bishops issued a challenge to the American Catholics to embrace and be actively involved in all areas of life. The call is to not be involved in just one area, but to embrace the total spectrum of human life. This statement advocating for the convicted felon, for all those who have lived lives of violence and crime is part of this embrace.

\textsuperscript{133}Once-in-a-Generation Crossroad: Capital Punishment,” *Origins* 27, 19 (October 23, 1997), 332.

\textsuperscript{134}Ibid., 331f.
Pope John Paul II has reminded us that we must respect every life, even that of criminals and unjust aggressors. It is increasingly clear in modern society that capital punishment is unnecessary to protect people’s safety and the public order, so that cases where it may be justified are “very rare, if not practically nonexistent.” No matter how serious the crime, punishment that does not take life is “more in conformity, with the dignity of the human person” (The Gospel of Life, 56-57). Our witness to respect for life shines most brightly when we demand respect for each and every human life, including the lives of those who fail to show that respect for others. The antidote to violence is love, not more violence.

Opposition to abortion and euthanasia does not excuse indifference to those who suffer from poverty, violence and injustice. Any politics of human life must work to resist the violence of war and the scandal of capital punishment. Any politics of human dignity must seriously address issues of racism, poverty, hunger, employment, education, housing and health care. Therefore, Catholics should eagerly involve themselves as advocates for the weak and marginalized in all these areas.\footnote{Pope John Paul II, “Illuminating Present World Problems With Bethlehem’s Light,” Origins 28, 29 (January 7, 1999), 505f.}

The above is the only document issued in this year in the United States dealing with capital punishment. It is part of the advocacy role of the Church in its preaching to live what the Holy Father refers to as the Gospel of Life.

On December 25, 1998, Pope John Paul II in his Christmas message prayed that the light of Bethlehem deliver humanity from its cross of violence. Included in this was the prayer to end the death penalty.\footnote{Pope John Paul II, “Living the Gospel of Life: A Challenge to American Catholics,” Origins 28, 25 (December 3, 1998), 434.}

\textbf{ORIGINS 1999:}
Cardinal Adam Maida, in a homily at St. Mary’s Cathedral in Lansing on January 1, 1999, challenged the citizens of Michigan and its leadership to stand strong against the attempts to introduce capital punishment into law in the state and to hold to the long tradition of the state to reject this penalty. The Cardinal here seized the initiative to encourage the leadership of Michigan to continue its stand for life in this area. Rather than let this issue go because there is a ban of capital punishment, the Cardinal took pro-active or preventative stance of advocacy for life in this area.137

Pope John Paul II on January 22, 1999, in the Apostolic Exhortation, ‘Ecclesia in America,” addressed the culture of death in a society dominated by the powerful. The advocacy for the life of the convicted felon received a strong reference in this section of the Apostolic Exhortation. The pope tells us the following.

    Nowadays in America as elsewhere in the world, a model of society appears to be emerging in which the powerful predominate, setting aside and even eliminating the powerless: I am thinking here of unborn children, helpless victims of abortion; the elderly and incurably ill, subjected at times to euthanasia; and the many other people relegated to the margins of society by consumerism and materialism. Nor can I fail to mention the unnecessary recourse to the death penalty when other “bloodless means are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons. Today, given the means at the state’s disposal to deal with crime and control those who commit it, without abandoning all hope of their redemption, the cases where it is absolutely necessary to do away with an offender “are now very rare, even nonexistent practically.” This model of society bears the stamp of the culture of death and is therefore in opposition to the Gospel message. Faced with this distressing reality, the Church

community intends to commit itself all the more to the defense of the culture of life.\textsuperscript{138}

On his journey in the United States of America the pope spoke in St. Louis on January 29, 1999, on the importance of the American people to join in the “new evangelization” which defends the importance of the family and the dignity of human life. The pope in his homily specifically defended the life of the criminal who has done great harm to another and society. The pope is consistent in his defense of human dignity even for those who are incarcerated for serious crimes. Their dignity and worth are not less because of their crimes.

The new evangelization 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. Modern society has the means of protecting itself, without definitively denying criminals the chance of reform (cf,\textit{ Evangelium Vitae}, 27). I renew the appeal I made most recently at Christmas for a consensus to end the death penalty, which is both cruel and unnecessary.\textsuperscript{139}

On February 5, 1999, the Missouri Bishops, encouraged by the Holy Father’s message and challenge for a new evangelization, asked that a consensus begin to remove the death penalty from our society. The Missouri bishops also asked for the support of the victims of the crimes and for help in developing a path of forgiveness of the criminal as the only true way to find peace and remove the trauma of violence from life.


Vengeance, said the bishops, doesn’t get this done. The document then went on to present the power of forgiveness demonstrated in chosen actual cases.

The bishops also stated that the Church needs to look deeply into the lives of those on death row, lives that have been lived on the streets as youths, lives that have been abused and neglected by the family, lives addicted to drugs, lives suffering mental illness.¹⁴⁰

After reiterating the words of Pope John Paul II in his stance against the death penalty and the sanctity of the life of the criminal, the bishops concluded their statement by reminding us of the fragility of human justice with the following quote.

> We must also keep in mind that prejudicial attitudes can cloud judgment and lead to miscarriages of justice. Nationwide, since 1976, for every seven executions one other defendant on death row has been found innocent. We therefore should humbly admit our human frailty and avoid passing the ultimate judgment of death when the person is incarcerated and society is adequately protected.¹⁴¹

The bishops of Texas, who had already advocated for the lives of criminals under the death penalty, on January 21, 1999 made a special appeal to the Texas legislature to remove the implementation of the death sentence on criminals who are mentally retarded, asking how can the highest standard of blame be assessed on someone who is mentally impaired. They saw the culture of death, which the Holy Father speaks of in the modern world, to be present in a government which executes people who are significantly sub-average in intellectual functioning and deficient in adaptive behavior. The bishops of

¹⁴⁰”Building Consensus on Death Penalty,” Origins 28, 36 (February 25, 1999), 639f.
¹⁴¹Ibid., 640.
Texas, in their responsibility as advocates for life, did not hesitate to publically address this problem and strongly urge the lawmakers of Texas to act leniently.\textsuperscript{142}

In the April 1\textsuperscript{st} edition of Origins the Archbishop of Fall River, Mass., Bishop Sean O’Malley, issued a pastoral letter advocating the ban of the death penalty. The letter reviewed most of the reasons and arguments put forth previously by other bishops and state hierarchies. In this pastoral the bishop gave information on other studies that strengthen the argument that the death penalty is not an effective deterrent to the commission of serious crime.\textsuperscript{143}

On April 2, 1999, the United States Catholic Conference issued an appeal on Good Friday to end the death penalty. This is a short document covering much of what has been discussed previously, and continues the now 25 year plus tradition of episcopal opposition to the death penalty.\textsuperscript{144}

On September 1, 1999, the Wisconsin bishops issued a report on the prison system in the state. They addressed a number of issues which they saw as problematic in corrections. One of the issues is that the correctional system, with its fifty percent (50\%) plus recidivism rate, is ineffective in dealing with those who are incarcerated. This

\textsuperscript{142}“Legislators Asked to Ban Capital Punishment for Mentally Retarded,” \textit{Origins} 28, 40 (March 25, 1999), 704.


\textsuperscript{144}U.S.C.C. Administrative Board, “A Good Friday Appeal to End the Death Penalty,” \textit{Origins} 28, 42 (April 18, 1999), 726f.
indicates that those who were released continued to commit felonies to the detriment of the common good and public safety.

The bishops criticized this correctional system as not addressing the serious needs of reform. Therefore this system is detrimental to the inmate, the correctional workers, the victims and their families and society in general. The bishops asked that there be placed in the correctional system a presence of “mercy” which will allow justice to arrive at its full effect.

The bishops were quick to state that this did not mean the premature release of prisoners to society. But it does mean being attentive to their needs when they are in the criminal justice system. If they are in prison then this “mercy” needs to be applied in the prison. This is a “mercy” which is to give deliverance from experienced emotional traumas, addictions, character flaws and lack of education which are many of the underlying reasons binding a person into the life of crime. This mercy is to be restorative.

The bishops used Jesus’ parable of the prodigal son to teach us that, while the felon must come to realize that he/she needs to return back to his/her home to live a life of productivity and peace, society also is to be open to receive them. “Mercy” also challenges the visitors and their families and society to do those acts which will restore wholeness in all of their lives and to heal the common good. Anger which hardens the heart and refuses mercy is also an act which is wrong and sinful.

The bishops proceeded in their statement to give five guiding principles to help guide responses to crime to see whether the policies or procedures are redemptive or
vengeful. The five guidelines are: One, correctional policies must convey respect for the human person. This is to be the basis of society’s approach to the convicted felon. It is a reaffirmation of the Church’s teaching that humanity is unable to destroy the inherent dignity of its nature given by God by its actions however heinous.

Two, the policies are to serve the common good. Policies are to address the welfare of all peoples: the victims, the felons, the families of both, correctional and law enforcement people and society in general.

Three, corrections are to address the needs of the poor, the powerless, and the marginalized. Special efforts need to be made for those who have little or no resources. Corrections are to address the problem of race and racism. This is also to be applied to those victims of crime who are poor or belong to a racial minority.

Four, policies which enact punishment must serve the end of restoration. Even the most severe punishment must serve this end.\textsuperscript{145}

Five, policies must foster solidarity in the community. This is to ensure the wholeness of the restoration in society:

\begin{quote}
Public and private responses to crime must foster the principle of solidarity, which is to make a commitment to the good of each person and therefore the good of the entire community. For the Christian, living out the principle of solidarity fulfills Jesus’ call to love your neighbor as yourself.

Accordingly, policies should serve to reunite the offender with the community and supportive institutions of family, Church and neighborhood. Policies should also foster
\end{quote}

\textsuperscript{145}“Public Safety, the Common Good and the Church,” \textit{Origins} 29, 17 (October 7, 1999), 261ff.
healing of crime victims so that they too can be restored to
the community and feel free to move about in it.\textsuperscript{146}

The statement concluded with the appeal to politicians and the media to embrace
these principles and to look deeper into the problem of crime and corrections. The
bishops gave a special call to Catholics to deal with the challenge of crime and prisons.
Catholics are challenged to embrace the social thought of the bishops on diocesan
ministries, such as visiting and supporting inmates, their families and to help victims and
their families.\textsuperscript{147}

This statement by the Wisconsin bishops is an excellent document of advocacy for
the inmates and the correctional system, but also for victims and for our society. It uses
the theological importance of John Paul II on mercy to give good guiding principles on
policy formation. This document addresses and challenges society in general and the
Church in particular to practical action. This statement is an outstanding example of
apostolic advocacy in the field of corrections.

At a June 27, 1999, in an address Bishop James McHugh, coadjutor bishop of
Rockville Center, New York, spoke on living the gospel of life. In his address the bishop
reiterated the teaching of John Paul II that capital punishment is inappropriate. The by
now famous phrase that the justification of the use of the death penalty is ‘very rare if not
practically non-existent’, was the center part of his statement against the death penalty.\textsuperscript{148}

\textsuperscript{146}Ibid., 265.

\textsuperscript{147}Ibid., 261ff.

\textsuperscript{148}Bishop James McHugh, ‘Living the Gospel of Life,” \textit{Origins} 29, 18 (October 14, 1999), 290ff.
On October 20, 1999, the United States Catholic Conference issued a statement to the Catholic community to form their consciences in accord with the social teaching of the Church, especially as it is expressed in these modern times. As members of a democracy the Catholic citizens have an obligation to form their thinking according to the Church’s modern social thought in the exercise of civic responsibility. The inappropriateness of the death penalty was part of this statement, quoting Pope John Paul II as offering it to be cruel or unnecessary.¹⁴⁹

On December 6, 1999, the National Conference of Catholic Bishops Committee for Ecumenical and Interreligious affairs met in consultation with the National Council of Synagogues. The result was a joint statement condemning the use of the death penalty. The arguments used were generally those that were proposed by the National Conference of Catholic Bishops that were covered previously.¹⁵⁰

The year 1999 saw a prolific production of the statements against the death penalty by the United States Bishops. The reasons and arguments have by this date been fairly well developed and form a defense of the life and dignity of the convicted felon. A statement on corrections was also made this year. The Wisconsin bishops spoke in advocacy of the prison system, its goals and importance to our society, as well as reminding the citizenry of that state to understand that human dignity is not destroyed by


destructive human acts. Rather they advocate this gift of humanity remains worthy of human respect despite wrongful acts.

**ORIGINS 2000:**

On February 9, 2000, Bishop Joseph Fiorenza of Galveston-Houston, president of the United States Conference of Catholic Bishops, wrote a letter to President William Clinton. In this letter the bishop urged the president to suspend the federal death penalty. The letter cited the many practical problems of the exercise of the death penalty such as being discriminatory and the possibility of executing the innocent. The letter also spoke of its contributing to the culture of death along with assisted suicides and abortions. The death penalty is no longer needed with the existence of the modern prison system. The bishop defended the dignity of human life whether guilty or innocent.¹⁵¹

On February 22, 2000, Cardinal Anthony Bevilacqua gave testimony to the Pennsylvania Senate Judiciary Committee urging the removal of the death penalty. The Cardinal stated that the sacredness of human life is from conception to natural death and that one’s actions do not earn or destroy human dignity. It is from God. In the light of the modern prison system and its ability for containment the need for the death penalty has been removed.¹⁵²

On May 25, 2000, Cardinal Roger Mahony addressed a National Press Club News Maker luncheon. In this address the Cardinal quotes the Pope in his condemnation of the

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use of the death penalty in countries who possess a non-lethal means of containment. In a short but powerful quote from the address there is given a clear indication that society needs to heed the warnings of a growing disrespect for life in its midst.  

More ominously, our society is tempted to solve some of our more significant social problems with violence: Consider this:
-- Abortion is promoted to deal with difficult or unwanted pregnancies.
-- Euthanasia and assisted suicide are suggested as a remedy for the burdens of age and illness.
-- Capital punishment is marketed as the answer to deal with violent crime.
A nation that destroys its young, abandons its elderly and relies on vengeance is in serious moral trouble.

The Cardinal also reiterated the teaching of the Church and the stance of the United States Bishops that human dignity is not qualified by what we do. Human dignity is a permanent reality in everyone.

Bishop Joseph Fiorenza, president of the National Conference of Catholic Bishops, spoke at a Mass opening the Spring conference on June 15th. In his homily the bishop advocated the pro-life stance and teaching of human dignity in regard to the death penalty, and spoke on the need of reconciliation in the criminal justice system.

This afternoon we will discuss a proposed statement on the criminal justice system. In this statement we will offer a Catholic perspective on appropriate punishment for crime and restorative justice in which healing and reconciliation

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154 Ibid., 62.

155 Ibid., 59ff.
between victims and perpetrators reflect Jesus’ command to be reconciled ‘before offering our gifts at the altar.’ This statement will offer a deeper scriptural and theological basis for the Church’s pro-life opposition to capital punishment.156

The Church in her advocacy role is not just to prevent executions of felons, though this is important, but it also is to move positively to help enact the restoration of justice and reconciliation.

Bishop William Skylstad of Spokane introduced a preliminary draft document on crime and criminal justice to be brought for the bishops’ approval in November, 2000. In this talk the bishop gave an advocacy statement for the offender who is incarcerated.

We can’t build enough prisons to protect us from the consequences of a culture where life is cheap, where people are not as important as things, which gives up on so many of our young people. We have to go back to fundamental moral principles: “Thou shalt not kill, thou shalt not steal, thou shalt not covet thy neighbor’s goods.” And we have to uphold these moral principles in ways that do not write off, lock away or put to death brothers and sisters who have never learned these lessons. We have to teach our values, build up our communities, reach out to victims and offenders, and insist that every person is precious, every life is sacred, everyone has the dignity of a child of God.157

In this quote we see that the bishops are to work for reform of prisons which will protect the dignity of the incarcerated and not just be institutions which warehouse human flesh.


On July 9, 2000, Pope John Paul II delivered a Jubilee message for prisoners. In the message the Holy Father speaks to the administrators of prisons and government to offer conditions which respect the human dignity of those incarcerated. The pope spoke of those who are in prison as still in the image and likeness of God. The Roman Pontiff appealed to these institutions and society to enact programs that will offer them a choice at redemption.\textsuperscript{158}

But the jubilee is not just about measures to redress situations of injustice. It also has a positive intention. Just as in ever new ways the mercy of God creates fresh opportunities for growing in goodness, so also to celebrate the jubilee means to strive to find new paths of redemption in every personal and social situation, even if the situation seems desperate. This is even more obvious with regard to prison life: Not to promote the interests of prisoners would be to make imprisonment a mere act of vengeance on the part of society, provoking only hatred in the prisoners themselves.\textsuperscript{159}

In this jubilee message the Holy Father reinforces the United States Bishops’ documents on the need to reform the penal systems in America not just to have better and safer living conditions, though this is essential, but to go further and begin to put real effort and resources for the reform of their lives. Prisons are not to enact the punishment of vengeance, but the punishment which allows justice to move to change and redemption.\textsuperscript{160}

\textsuperscript{159}Ibid., 143.
\textsuperscript{160}Ibid., 142ff.
Cardinal Roger Mahony delivered a homily at a Mass for the Democratic Convention delegates on August 13, 2000. In this homily he referred to the threat to human life in our nation. In this section the Cardinal mentioned the inappropriateness of capital punishment.

Human life remains threatened in our country most clearly because of legalized abortion, but also by the continued use of capital punishment and the movement to allow physician-assisted suicide. As we are nourished by God’s word, we find there that innate dignity of each human life and person, and are nourished through the Eucharist to guard and protect all human life.161

Bishop Robert Baker of Charleston, S.C. stated in the diocesan newspaper, The New Catholic Miscellany, the wrongness of capital punishment. The bishop, whose letter appears in Origins October 19, 2000, likened the movement against abortion and capital punishment to the abolitionist movement of the 19th century in America. The bishop spoke of the dignity of the human person and the need to search out non-lethal means of punishment.162

On November 15, 2000, the United States Bishops issued a major statement on prisons, the problems of justice and crime entitled, “Responsibility, Rehabilitation and Restoration’ A Catholic Perspective on Crime and Criminal Justice”. In the


“Introduction” of the document the Bishops gave the document’s foundation which is the advocacy of the importance and goodness of human life, even the life of the felon.

A Catholic approach begins with the recognition that the dignity of the human person applies to both victim and offender. As bishops, we believe that the current trend of more prisons and more executions, with too little education and drug treatment, does not truly reflect Christian values and will not really leave our communities safer. We are convinced that our tradition and our faith offer better alternatives that can hold offenders accountable and challenge them to change their lives; reach out to victims and reject vengeance; restore a sense of community and resist the violence that has engulfed so much of our culture.163

The document proceeded with the bishops addressing four different areas of crime and punishment in our nation. These four areas cover the whole range of the criminal justice system: the victims, the offenders, the prison system, community action, the culture and family life.

Section I:

This section deals with the dimensions of crime and punishment in the United States. In this area the bishops speak of the damage done by crime and the hurt done to individuals. The bishops speak to the importance of addressing the rights of the victims and the need to offer assistance and aid. In this section the inadequacy of our laws and the need for vengeance is also dealt with. The higher rates of incarceration, tougher sentences and the diversion of funds from treatment to construction is deplored. The discrimination and racial bias of the system is criticized with the bishops quoting

statistics which confirm the initial suspicions that the Afro-American, the Hispanic, the illiterate and the mentally ill comprise the majority of the prison population of this nation. Of course these numbers are far above their percentages in the civilian population. The bishops speak also of the unjust treatment of immigrants in our criminal justice system. Finally, they address the importance of treatment within the prison system.  

Since the 1970’s, a considerable debate has developed in the United States about whether treatment programs work and to what extent. Careful reviews of the literature on rehabilitation have concluded that treatment does reduce recidivism. No single type of treatment or rehabilitation program, however, works for every offender. The effectiveness of programs depends on many things, including type of offense, quality of the program and family, Church and community support.

Section II:

This section deals with the scriptural, theological and sacramental heritage of the Catholic Church which can be of help in the current debate on crime and punishment in the United States. The bishops speak of the Catholic vision of criminal justice as a paradox. It is holding on and protecting the rights of both ends of the spectrum.

In some ways an approach to criminal justice that is inspired by a Catholic vision is a paradox. We cannot and will not tolerate behavior that threatens lives and violates the rights of others. We believe in responsibility, accountability and legitimate punishment. Those who harm others or damage property must be held accountable for the hurt they have caused. The community has a right to establish and enforce laws to protect people and to advance the common good.

\[164\] Ibid., 389ff.  
\[165\] Ibid., 394.
At the same time, a Catholic approach does not give up on those who violate these laws. We believe that both victims and offenders are children of God. Despite their very different claims on society, their lives and dignity should be protected and respected. We seek justice, not vengeance. We believe punishment must have clear purposes: protecting society and rehabilitating those who violate the law.

We believe a Catholic vision of crime and criminal justice can offer some alternatives. It recognizes that root causes and personal choices can both be factors in crime by understanding the need for responsibility on the part of the offender and an opportunity for their rehabilitation. A Catholic approach leads us to encourage models of restorative justice that seek to address crime in terms of the harm done to victims and communities, not simply as violation of law.\(^{166}\)

In this section the bishops give three main areas of Catholic theology which could bear on the problem of criminal justice. These are the fields of scripture, sacramental traditions and Catholic social teaching.

The following quote represents a reflection on the Old Testament and the New Testament on the questions of sin, punishment and forgiveness.

The Old Testament provides us with a rich tradition that demonstrates both God’s justice and mercy. The Lord offered to his people Ten Commandments, very basic rules for living from which the Israelites formed their own laws in a covenant relationship with God. Punishment was required, reparations were demanded and relationships were restored. But the Lord never abandoned his people despite their sins. And in times of trouble, victims relied on God’s love and mercy, and then on each other to find comfort and support (Is. 57:18-21; Ps. 94:19).

Just as God never abandons us, so too we must be in covenant with one another. We are all sinners, and our response to sin and failure should not be abandonment and

\(^{166}\)Ibid., 394-95.
despair, but rather justice, contrition, reparation and return or reintegration of all into the community.

The New Testament builds on this tradition and extends it. Jesus demonstrated his disappointment with those who oppressed others (Mt. 23) and those who defiled sacred spaces (Jn 2.) At the same time, he rejected punishment for its own sake, noting that we are all sinners (Jn. 8). Jesus also rejected revenge and retaliation and was ever hopeful that offenders would transform their lives and turn to be embraced by God’s love.\textsuperscript{167}

Regarding the sacramental and historical heritage that the Church brings to this issue of crime and punishment, the sacrament of reconciliation is seen as the primary sacrament which allows offenders to begin their conversion and transformation. The bishops review the four traditional elements which are important for one taking responsibility for one’s actions, making amends and hoping to be reintegrated back into the community. The four elements which the Church asks each sinner to practice for one’s reconciliation and moral growth are: 1) true sorrow for the wrongs done, 2) confession and acceptance of the truthful activity, 3) satisfaction or some amends or repayment of damage, 4) absolution or expression for forgiveness by one who represents authority (priest). These four values the bishop recommend to the criminal justice system as a beginning for the transformation of the offender’s life. The last part of this Section II deals with the Catholic social teaching and its heritage. The bishops address six different areas from its social teaching. The first is the inherent value of human life and dignity. This is not something we merit or can lose by our part in actions or behavior. We are by nature in the image and likeness of God. The second is that all persons have from nature

\textsuperscript{167}Ibid., 395.
rights and responsibilities. The bishops see these two values go to the very heart of crime and punishment. We are to respect the rights of those who violate others’ right, yet at the same time hold them accountable for their deeds. The third also is the concern for the family and community. The criminal justice system cannot be concerned with just dealing with the offender. There is a wider area that needs to be dealt with. The problem of family and community disintegration needs to be addressed. Removing the offender from family and community ties in isolated areas of the country aggravates rather than helps the problems of crime in our nation. Using victims merely as instruments for the prosecution ordinarily does not heal the victims and their families. The needs of those people are, more often than not, not met. The fourth area addressed by the bishops is the common good. This joint area has three subsections that need to be done to preserve the common good: (1) the preservation and protection of society, (2) the restoration of public order, and (3) the conversion of the offender. This last item, the conversion of the offender, is important in that he/she has a right to restore damage done by his/her acts. It calls for responsibility which is part and parcel of our human dignity and allows the perpetrator to return to society with head held high so to speak. The fifth area is poverty, racism and marginalization which contributes to the life of crime. Those mistreated when they are young learn to be predators at an early age. The Church, society, and the criminal justice systems need to concern themselves about this area of vulnerability in our society and take positive steps to enact changes. The last area that the bishops draw from are the principles of subsidiarity, and solidarity. The principle of subsidiarity asks that the smaller organizations as neighborhoods and towns meet and work to solve problems
of crimes at a lower level. Only when it is too large should it go to the state and federal level. The principle of solidarity is that we are not just responsible for self or family we are but to go beyond personal boundaries of self, family and neighborhood and to seek justice and healing for all our brothers and sisters.

Section III:

The bishops gave directions and foundations on policies to be formed in dealing with crime and its repercussions in our country. These are the following. One, it is important that society be protected and dangerous people be removed from society. Two, causes of crime are complex and each case is different. Mandatory sentences need to be removed or severely cut back. Three, it is vital to enact programs which are preventative and reduce factors and conditions of crime as family disintegration and poverty. Four, challenge the culture to move from its fascination with violence to a culture of life. Five, offer to victims a real role and opportunity to participate in the process of criminal justice. To allow them that opportunity will bring closure and healing to the damage done to them. Six, it is important to allow, wherever possible, the opportunity to the offender to offer restitution to the victim.\(^\text{168}\)

When victims cannot confront offenders—for example, because it may be too painful or the offender has not been apprehended—they can choose to be part of an ‘impact panel.’ Led by professional counselors, these panels bring together victims and offenders who have been involved in similar crimes and can assist the victim’s healing, the

\(^{168}\)Ibid., 389ff.
community’s understanding of the crime and the offender’s sense of responsibility.\textsuperscript{169}

Seven, justice is to be more than just punishment. There needs to be a restoration and rehabilitation component to criminal justice. Eight, the tools and resources of the spiritual life should be available and encouraged by prison officials for the renewal and healing of the offender. Nine, the criminal justice system needs to be deeply involved in the treatment aspect of those addicted, to offer therapy, and to support those in their charge who are afflicted with mental and emotional disorders. Ten, the criminal justice systems need to look honestly at how immigrants are treated in this country and to enact equitable standards of justice.

Section IV:

The last section of this document addresses the Church’s mission in reshaping the criminal justice system. The bishops see the Church as doing and being involved in the six areas. First, the Church is to continue to be the teacher of values, to transmit those values of rightness and wrongness of our action, the importance of justice, punishment and forgiveness. Second, the Church must stand with the victims of crime and their families in compassion and the pursuit of justice, to be a catalyst for the healing of souls caused by the violence of crime. Third, the Church also must reach out to offenders and their families, to be advocates of restorative justice, healing and effective treatment. Fourth, the area is the problem of fear. When crime occurs in a community, the community feels threatened. The Church must build up those resources from law

\textsuperscript{169}Ibid., 398.
enforcement, citizens involvement and helping agencies to strengthen that community.

Fifth, the Church must advocate policies which would help reduce or prevent crime in the community e.g. removing the causes of poverty, working against racism. Sixth, the Church is to organize dialogical bases for all areas and peoples touched by crime and violence. In these forums of listening new ideas and a new appreciation of needs will be able to develop. Finally, the Church is to continually work for new approaches to deal with the difficult times of crime and violence.

In this document the Catholic Church gives a statement of advocacy not just for inmates but for the whole criminal justice system. It is a document which states the difficult moral paradox of offering forgiveness and healing while enacting justice and punishment for the offender. It is a document which advocates for the victims and for all those in neighborhoods and communities threatened by crime. The document is one in which the Church is asked to use to full advantage the heritage of her tradition. The Church is to be an advocate for those responsible for justice, for those victimized, for those who are offenders and incarcerated, for all the families impacted by criminal activity and for society as an advocate for the common good.

Finally, in Appendix II of this document the bishops state that, though the document does not deal with capital punishment, they do wish to again reiterate their advocacy for the life of the inmate under the sentence of death. “Appendix II” is dedicated to the call of ending the death penalty.\[^{170}\]

\[^{170}\]Ibid., 389ff.
On December 13, 2000, the bishops serving Maryland stated their opposition to the death penalty in the state. The bishops cited the teachings of Pope John Paul II of the death penalty's inappropriateness and the need for a culture to respect life in all stages and conditions. This, of course, would include the life of convicted felons.\textsuperscript{171}

In the Fall of 2000 a number of pleas were given in regard to the life of Juan Rual Garza scheduled to be executed at Terre Haute Federal Penitentiary on December 12\textsuperscript{th}. This would be the first federal execution in thirty seven years. Bishop Joseph Fiorenza, president of the National Conference of Catholic Bishops, the Indiana Bishops and a religious coalition which included a number of Catholic Bishops asked that the life of Mr. Gaiza be spared.\textsuperscript{172}

The year 2000 was a year that saw many statements of advocacy for the life of convicted felon. However, the major document of the year, the document on prison reform, was done in November of this year. The role of advocacy for the prison system, its workers and prisoners was placed in the wider context of crime and social conditions within the nation. Needless to say this document clearly states an advocacy of the Church in the many areas of prison work. Central to the concern of the bishops are the peoples impacted by crime—the victims (and families) and the perpetrators (and families). The document addresses many levels of the prison system, the problem of the vengeful attitude of the modern society, the needs of healing of the victims and the needs of


\textsuperscript{172}“Clinton Postpones First Scheduled Use of Federal Death Penalty,” \textit{Origins} 30, 29 (January 4, 2001), 464f.
justice, and the importance of the restoration and reconciliation of the offender. At all levels the documents insist on the dignity and sacredness of the persons involved and the need to treat offenders and victims with the utmost respect. In summation, this document clearly places a positive stamp on the role of advocacy of the Church with the modern prison system.

ORIGINS 2001:

On January 25, 2001 Bishop John Steinbach issued a pastoral letter urging his priests and his people to be involved in prison ministry. The bishop quotes the bishops’ November, 2000 document on criminal justice stating that the Church teaches us to start with a basic respect for the dignity and holiness of each person, even for the most hardened criminal.

In his letter the bishop uses the words of Jesus in the 25th Chapter of Matthew, “I was in prison and you visited me,” as the foundation why priests and people need to be involved in this ministry.\textsuperscript{173}

\begin{itemize}
  \item We visit and serve Jesus when we visit and serve the imprisoned. We live in a society where people are simply thrown into prison and forgotten. They need to be treated with respect, as human beings, and to know that God loves them. Those imprisoned will know of this love only if those who follow Christ hear those words of the Gospel and discern that Jesus calls them to serve him in the imprisoned. Jesus was imprisoned himself when he was on this earth. Jesus continues to be imprisoned in our brothers and sisters in the Lord. Jesus calls out to us to visit him and love him in these most forgotten men and women in
\end{itemize}

our society. Jesus is still found today throughout our diocese in our many detention facilities.\textsuperscript{174}

The letter proceeds to give particular challenge to priests to be involved in any detention centers in their parishes, to help families of offenders if possible, and to raise the awareness of prison ministry in their parishes.

Parish communities are also to be involved with prison work and in the care of victims of crime and their families. They are to help with reentry back into society. Parish councils are to begin to involve themselves in the works of crime prevention and the need to be advocates for prison reforms in their parish. Finally, he addresses all of God's people to avoid stereotyping of inmates, especially by politicians seeking votes. They are to be involved in the important social issues of the day, e.g. sacredness of life and positive action of crime prevention in our communities.\textsuperscript{175}

The bishop in his letter follows up on the document of crime and punishment issued by the national hierarchy in November 2000. Bishop Steinbach in this letter clearly advocates on behalf of inmates and the need for the Church to be involved in helping the offender in bringing his/her life around and become a contributing citizen.

In the June 21, 2001, publication of \textit{Origins} the statements of three Catholic Bishops were printed, asking that the life of Timothy McVeigh be spared. The three bishops, Joseph Fiorenza, Bernard Schmitt, and Thomas Daily, in their statements put forth the arguments of the inappropriateness of capital punishment as reviewed above.

\textsuperscript{174}Ibid., 629.

\textsuperscript{175}Ibid., 628ff.
Punishment can be meted out in alternative ways. The life of even a terrorist like
Timothy McVeigh is valuable and sacred. This, the last statement of advocacy, sums up
the year 2001 by continuing the now thirty years of advocating for prison reform, for
those incarcerated, for their lives, for the lives of victims, for families, for the entire
prison system, and for society.¹⁷⁶

FINAL SUMMARY:

This rather long chapter clearly documents the fact that the bishops of the United
States see themselves as having the obligation and the right to be involved in the
American prison system as advocates. Beginning with the events of Attica, New York,
the bishops began a tradition which has developed and evolved for thirty years. Almost
without exception this movement of advocacy has continued non-stop. This has been
from regional statements of bishops, individual statements of bishops, and from the
United States Catholic Conference of Bishops. This tradition has been supported and
incorporated into the thought of the Universal Church by Pope John Paul II. Some of the
highlights of their advocacy positions are as follows. First and foremost is the position
that the incarcerated, like all of us, are created in God’s image and likeness and are
possessed of a holiness and sacredness from God which is not destroyed by sinful acts.
The actions do not destroy the dignity of their nature nor remove their inherent rights and
responsibilities which are viewed as God-given. This position of advocacy was clarified
especially by the re-enactment of the death penalty by many of the states. The bishops of
this country rallied around the position of the dignity of the humanness of the felon, even

¹⁷⁶“Reaction to the Execution of Timothy McVeigh,” Origins 31, 6 (June 21, 2001), 110f.
though they (inmates) have committed some of the most heinous and brutal crimes in our society’s history. Their advocacy on this issue allowed the worth of the inmate to have ties with the pro-life movement of the United States. Once again the Holy Father solidified their position of the worth of the felon by stating as doctrine for the Universal Church the inappropriateness of capital punishment in the developed world.

The development of this role of advocate also connected with the Church’s social teaching concerning the poor, the powerless, and the marginalized. The examination of the prison population and the corridors of the death rows in our institutions show an undue percentage of minorities, indigent and poor suffering the brunt of the severest sentences of the land. This evident injustice and lack of equity spurred the prophetic voice of the present day apostles to challenge our society to change the way it does business in our society, law enforcement and courts. The prisons themselves have been challenged to face this racism and other forms of discrimination.

The advocacy for inmates included areas of appropriate enactment of justice. Justice is not just to punish but also to restore and to transform the offender. The bishops continually take the positions that prisons are not just to protect and safeguard society (although this is primary) but they are to enact practical programs which allow for the use of spiritual and emotional aids in the use of correction and rehabilitation. The document of November, 2000, which dealt specifically with the rehabilitation of those incarcerated, speaks of the value of the Church’s tradition to help in this change. The call to rehabilitate does not mean acceptance of wrong doing, but challenges inmates to be
responsible and use the tools of transformation to bring their lives around with the help of the good and effective treatment programs.

Beyond the role of advocacy for the inmate the bishops speak of the rights of victims and their families. The Church is to be involved with their rights to participate in the criminal justices process. The Church is to offer assistance in healing the damage from the trauma of criminal activity caused by the offender and to bring peace to the victim and the victim’s families. The Church is to be involved with strengthening of the inmates family and to stop the dissolution of family life that incarceration can bring about.

The bishops are aware that the prison system is a city within the context of a larger society. The city needs to be constantly examined for any systemic areas of sin and inappropriate activity. Correctional workers and correctional leaders are to be held to a standard which exemplifies the best standard of our society. The training and pay they receive is to be commensurate with the difficult job they do. Programs of support and healing are to be offered them as well. This city of corrections needs adequate funding and public support to accomplish the task of protection, care and rehabilitation of the offender, his/her families and the victims and their families.

The Church sees its role of advocacy in its prophetic condemnation of this society's fascination with violence and guns. The Church sees its advocacy in areas where the culture of death has entered and needs to be challenged. Our society is a society with wealth and affluence, yet the open wounds of poverty and discrimination still abound. The Church, along with others in society, see here the breeding of the criminals
and felons of tomorrow. The Church advocates the strengthening of these communities and neighborhoods with good law enforcement, community activities which support family life, and real economic opportunities for those caught in these sectors of American life.

Finally, the Church reminds herself that she is not just to speak the words of advocacy, but to be an institution of action, calling its bishops, priest and laity to mobilize resources and talents of the local Churches for the alleviation of crime and injustice. Priest and parishes are to be involved with the prisons in their neighborhoods offering the wisdom and spiritual strength of the Christian faith or traditions. The bishops are to direct this and to make it happen. The role of advocacy described by the bishops in their many documents is large and encompassing, a daunting challenge of promoting the common good while enacting individual justice, forgiveness, and reconciliation. It is a task that is beyond the bishops, beyond the Church, even beyond society to do alone. It is a task that needs the involvement of and partnership with the Divine.
CHAPTER THREE

ADVOCACY AND CHURCH-STATE RELATIONS

Presently, the American prison systems are predominately agencies of state and federal governments. Those that are privately owned are funded by government money. Therefore, with the question of advocacy of the Church in regard to the modern prison system the issue of Church-State relationship becomes an important topic to review.

Chapter three will consist of three parts. The first part will give a short historical review of Church-State relations in the Catholic tradition up to the present time (20th Century). The second part of the chapter will review the history of the “American Experience” of Church-State relationship, also to the present time. Finally, the chapter will conclude with a view of how Church-State relationships can include the advocacy role of the Church without violating the mission of either the State or the Church. To put it more succinctly, where can the Church exercise her advocacy for the prisoners, correctional workers and the prison system?

Section I: Catholic Tradition of Church and State.

Father Hugo Rahner in 1961 wrote an excellent short history of the Church’s relationship with the State in the first eight centuries of the Church’s existence. The book, entitled Church and State in Early Christianity, is divided into five chapters, each chapter dealing with a specific set of problems and responses by the Church in regard to the State. The State, of course, is for the most part the Roman Empire1. This book is

1Hugo Rahner, Church and State in Early Christianity (San Francisco: Ignatius Press, 1992).
ideal for the work of this chapter in the dissertation in that it is in these early centuries
that we see the Church learning to develop her relationship with the different
governments that will come into her history.

Chapter One of Rahner's work deals with the early Church, or what is referred to
as the age of martyrs. This first chapter of Rahner's book deals with the post-New
Testament experience up to the end of the third century before the arrival of the emperor
Constantine. The early Christian community never gave an unqualified “yes” or “no” to
State demands or requests. Its “no’s” were based on issues or questions which dealt with
those areas that would adversely impact the teaching or preaching of the Kingdom or the
Lordship of the Christ, or to those areas which would cause the community to
compromise an essential belief of that community. The “no” of this age of martyrs was
resolute and tenacious through times of peace and times of persecution alike.

Let us begin with the no of Christians to the State. It is
based, or so it seems, on the very nature of Christianity as a
religion of a “kingdom not of this world”. This no is
comprehensible in the period that opened with the flames of
human torches lit by the persecution of Nero and ended
with the bloodshed ordered by Diocletian.

The Church continually opposes any State that wishes to
build only in this world a kingdom of definitive happiness
or in absolutist fashion seeks to force religion into a legal
system that alone has full jurisdiction. The teaching and
life of the God-Man constitute a unique no, sealed by his
redemptive death, to the politicized religion of late
Judaism, with its hope fixed on the realization of an earthly
kingdom. The position of Christ before the de facto power
of the Roman Empire is clear in his shrewd distinction
between God and Caesar (Mt 22:20) and in his reply to the
imperial magistrate during his trial: “You would have no
power over me, unless it were given to you from above. (Jn 19:11)

This refusal to give service to State rituals, which had its own religious agenda, or to a pagan emperor cult was seen to be rooted in the later works of the Old Testament, in the books of Daniel and of I and II Maccabees, where the Jewish Community refused to surrender its faith and traditions to appease the State command of worshiping the gods of this pagan hellenistic State. The Apocalypse of John carries on this stubborn resistance to pagan worship with pictures denoting the Roman Empire as a beast, a harlot and a producer of the first concrete manifestation of the Antichrist.

It is no wonder then that the early Christian community was a target of fierce oppression from the Empire. The Empire itself was a religion and used religion to subjugate its citizens by a submissive act of worship of the Emperor. Because of the person and position of Jesus in the early Church, the Christians never bought into the picture of the Empire where Caesar was Lord and High Priest (Pontifex Maximus).

It is important to note that early in the book Father Rahner makes an interesting distinction between the East and the West. The tradition of the East was one of complete obedience and subjection to its rulers. Emperor worship was commonplace with very little tradition of a Republic. The West on the other hand came from a tradition in which there was a greater respect for freedom. This tradition in the West, though engulfed by the onslaught of emperor worship from the East, manifested some spirit of freedom in the

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2Ibid., 3-4.
culture. This respect for freedom would hold the Church in good stead in later centuries as we shall see later on. ³

However, the Church in all other areas was quite docile and loyal to the Roman Empire. This “yes” to the State was based also on the scriptures. In the Old Testament the books of Daniel (2:37) and Wisdom (6:2) indicate the power of the ruler was from God. The Church of the martyrs heard the “yes” to the State also in the New Testament letters of the two major apostles of the Church. From her beginning she saw that the State was from the Divine Order established by God Himself.

To obey the Emperor was to do the will of God. Rahner gives a good summary of this Church of the martyrs.

For the Church of the martyrs, therefore, the denial of the State was upheld—always with a tranquil simplicity—only when the core of the Faith demanded it and when there was a danger of undermining the loyalty to a heavenly kingdom, to the kingdom of the only Lord, whom a Christian of the period called the “otherworldly Emperor”. Whatever else the Church had to say to the State was summed up in an unconditioned yes.

The Christian yes to the State was based on the idea, formulated clearly right from the beginning, that the imperial power, as it was embodied in the person of the emperor, descended directly from the Creator of mankind. ⁴

The patriotic loyalty of the Church to the State was by and large consistent from the beginning. Clement of Rome in his first letter to the Corinthians offers a prayer for the emperor and rulers of the Empire.

³Ibid., 7-8.

⁴Ibid., 12.
Direct our ways till we walk in holiness of heart and our works are good and pleasing in your sight and in the sight of our rulers. Lord, let your face shine upon us in peace for our good, that we may be protected by your mighty hand and saved from wrongdoing by your outstretched arm. Deliver us from those who hate us without cause. To us and all mankind grant peace and concord just as you did to our ancestors when they called upon you devoutly in faith and truth. Make us obedient both to your almighty and glorious name and to all who rule and govern us on earth.

For you, Master, in your supreme and inexpressible might have given them their sovereign authority that we may know the honor and glory given to them by you and be subject to them, in nothing resisting your will. Grant to them, Lord, health, peace, harmony, and security that they may administer the government you have given them without offense. For you, heavenly Master and eternal King, have given mankind glory and honor and power over the things of the earth. Direct, Lord, their counsels according so what is good and pleasing in your sight that they may in peace and gentleness administer the power you have given them and find mercy in your eyes. To you who alone can give us these and far better things, we offer praise through Jesus Christ, the high Priest and Guardian of our souls, through him be glory and majesty to you now and for all generations for ever and ever. Amen. 

As seen from the above the Church felt herself a part of the society and government which persecuted her from early times. This support and concern for the State seems to grow and mature through the age of martyrdom instead of diminishing.

In the middle of the third century there was a respite in the hostility of the empire toward the Church. In this time there began to be a vision of the Church and State

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working together. The Church was envisioned as being on a par with the State in the direction and guidance of its members.\textsuperscript{6}

The existence of the State seems to have become more important in the life of the Church. The Church believed that it was her prayers that continued the empire in the world and in doing so delayed the destruction of the world by the forces of chaos and darkness. Rahner indicates the Church of the third century began to believe that she had a positive destiny with the empire. It is interesting to note that the empire began to take stock of this religion that was vital, growing and quite tenacious in keeping and proclaiming its faith and values. Christianity began to be part of the government and the imperial household.\textsuperscript{7}

In the reign of Marcus Aurelius the Church did something which was quite unusual and foreshadowed a future interaction between the Church and State. The Church turned to the emperor and asked his help to straighten out a problem which was purely a Church problem. Bishop Paul of Samasota, when deposed for heresy, refused to surrender the Cathedral. The Emperor decided the Cathedral should be given to the bishop who was in communion with the bishops of Rome and Italy. Thus the State, upon the request of the Church, exercised authority in an ecclesial problem. This would never have been done in the past. It would seem that the Church was in such a position to

\textsuperscript{6}Ibid., 17-8.

\textsuperscript{7}Ibid., 17-8.
officially approach the emperor of Rome and request that he offer his official services on her behalf.\textsuperscript{8}

The age of the martyrs came to an end with Diocletian’s persecution at the end of the 3rd century. The Emperor Galerius, as he lay close to death, issued the first edict of toleration in April 311 allowing Christians to practice their faith freely and publicly.\textsuperscript{9}

This early age of the Church, her first three centuries, established for future generations much of the policy and principles by which the future Church would operate. As was stated above, the Church showed herself to be patriotic and loyal to the empire in which she lived. She supported it and prayed for it. And toward the end of the age of martyrs the Church looked forward, it would seem, to a deeper positive relationship with it. This, more than likely, was the result of three centuries of witness and good citizenship to society. However, as history clearly indicates, the “no” to the Empire was tenacious and constant in any area that would threaten the teachings and position of her Lord Jesus either in regard to matters of heaven or of earth.

In the beginning of the fourth century the destiny of the Christian Church and the Roman Empire would be changed forever. With the end of the reign of Diocletian and with it his persecution of the Church, a new emperor arrived on the scene, named Constantine. He united the Roman Empire and enacted toleration of all faiths, especially the Christian faith at Milan in 313 A.D.

\textsuperscript{8}Ibid., 19.

\textsuperscript{9}Ibid., 20.
It is interesting to note this act of toleration did not last long. Soon Constantine became inexorably drawn into Church problems. As emperor of the Roman Empire he quite naturally understood that part of his job would be to be involved with imperial religious policy; and, as he supported the Church more and more, his expectation of the Church was that it would be more and more submissive to him. He was the Pontifex Maximus of the empire, though only a catechumen in the Church.

The Christian faith to him was an instrument to help ensure uniformity of thought and faith throughout his empire. Constantine was a politician, not just a successful commander of armies. Christian dogma and belief were of no importance. These were the trivial matters with which bishops concerned themselves. His concern as Emperor was the question of union of the Church and the empire.

It would seem that Constantine viewed the Christian faith as a part of his destiny, as one chosen to lead the empire and to allow it to be the reflection here on earth of blessed beauty of the heavens. He was chosen to exercise Divine Power. He saw it well within his office to summon the bishops of the Church to himself at Nicaea for a resolution of a dispute within the faith. The age of tolerance was quietly disappearing much to the disadvantage of the pagan cults, and much to the aggrandizement of the Christian faith.

Toward the end of Constantine’s reign there begins to emerge a problem which would plague the Church for centuries, i.e. a Christian emperor making decisions for the Church on Church matters. Constantine began to be viewed, especially in the East, as a
bishop in his own right; the apostles’ equal. This empowerment of an emperor with an ecclesial title would have grave consequences soon after his death. \(^{10}\)

Rahner gives a quote from the ‘Life of Constantine’ in the emperor’s letter to the saintly bishop in Alexandria, St. Athanasius.

> Now that you know my will precisely; therefore, without delay open the doors of the Church to all who wish to enter. If it comes to my attention that you have prevented the entry of anyone desiring to be in communion with the Church, that you have barred their way, know this: I will send officials who will at my order see to your dismissal and removal from your episcopal see. \(^{11}\)

Rahner points out two dangers that are part of an imperial religion. One is that politically ambitious clergy, many of whom were ‘crypto pagans’ or heretics, have access to the Church via the imperial court. Second is that religion is viewed by government as a vehicle to bring unity and uniformity to an empire that governed vastly different peoples. \(^{12}\)

With the death of Constantine comes the reign of his son, Constantius. The golden moment of orthodoxy is smashed with Constantius’ persecution of the Catholic Church and the support of the Arian heresy. Under his reign the Arian bishops have almost total access to the emperor at Constantinople. The advent of this emperor begins the long struggle for independence from imperial authority and decisions in regard to the faith. Councils began to be held by Constantius to establish a united faith in the Empire.

\(^{10}\)Ibid., 39-46.

\(^{11}\)Ibid., 48, Citing Athanasius, “Apologia Contra Arianos,” 59 (Pg. 25, 358b).

\(^{12}\)Ibid., 46-7.
This faith was to be the faith of the Arian heresy. Preceding the council at Rimini in Italy, the Emperor has the pope of Rome, Liberius, forcefully sent into exile for opposing the Emperor’s rejection of Athanasius and Nicaea. Later this pope would return to Rome a broken man once he denounced Athanasius due to the tyrannical force of Constantius. Pope Liberius would have to accept the deacon Felix to rule the papal office. At Rimini the emperor called western bishops without pope Liberius or any papal legate to denounce the faith of Nicaea. At first all refused, then slowly but surely under imperial pressure all came to support the emperor with the exception of only twenty bishops, most of whom were sent into exile.\textsuperscript{13}

With the death of Constantius the Arian cause also died. A new and powerful emperor emerged, named Theodosius, who was orthodox. Clearly cut out of the same mold as Constantine, he was just as despotic and tyrannical.

The Church under Constantius fought a war on two fronts, against the heresy of Arius and against the power of the emperor. It was in this century, Rahner points out, that the Church in her struggle for freedom understood the importance of doctrine in the foundation of religious values and the importance of keeping the clergy independent from the control of the State as much as possible. In regard to this struggle for independence Rahner makes the observation on the importance of the Divinity of Christ in the life of the Church in society.

Arian Christianity was always more prone than the Catholic Church to submit to the state’s authority because it lacked the counterweight of faith in Christ’s divinity and

\textsuperscript{13}Ibid., 49-60.
thus a sense of transcendence, which could lead it to consider the State as only a thing of secondary importance compared with Christ’s supreme power flowing from his participation in the divine nature.\textsuperscript{14}

With the advent of Theodosius there existed a type of co-existence with pope Damasus who took advantage of an orthodox emperor to strengthen the position of what Damasus referred to as the Apostolic See. He and the powerful presence of St. Ambrose in Milan were able to keep this emperor somewhat at bay in the West. However things were different in the East.\textsuperscript{15}

Rahner gives a good summary statement of Theodosius and the Church in the East.

Theodosius did not want to play the role of an imperial despot, himself proposing new creeds as had Constantius; rather, he exercised his authority over religious beliefs whose orthodoxy was guaranteed by the pope and by the successor of the renowned Athanasius of Alexandria. But he referred to the ‘heavenly inspiration’ that touched his imperial heart, and with that statement we are on the threshold of an imperial State Church, in which the last word is said by an emperor heavenly inspired. The Greek East took the historic step of acting on this principle and put the Church in the emperor’s hands.\textsuperscript{16}

In 381 AD the emperor convoked a general council at Constantinople. Here the last remnant of Arianism began to be put to rest in the empire; and the faith of Nicaea is reaffirmed. In the proceedings of the Council a troublesome section was adopted; at least

\textsuperscript{14}Ibid., 64.

\textsuperscript{15}Ibid., 72-3.

\textsuperscript{16}Ibid., 74.
it was troublesome to Ambrose and Damasus. In the council the emperor wanted to raise the status of his capital, Constantinople, since it was the ‘New Rome’. Constantinople was to have primacy of honor second only to the Bishop of Rome. In reaction to this pope Damasus called the synod of Rome in 382 to clarify the position and role of the Apostolic See.\textsuperscript{17} 

In a Roman synod of 382 this belief in papal primacy was formulated in a manner extremely influential in succeeding centuries. It forms the best and clearest witness to Rome’s preeminence in the Church that we have from so early a period, and it is a clear refusal to accept the imperial attempt to reorder the Church contained in the third canon of the Council of Constantinople. ‘Even if all the Catholic Churches throughout the world are, so to speak, the single wedding chamber of Christ, nevertheless the holy Church of Rome surpasses in rank the other Churches not by a synodal decree but because she has received the primacy from Christ’s words in the Gospel: you are Peter, and on this rock I will build my Church.’\textsuperscript{18} 

The scene for the inevitable tensions and the inevitable split between the East and West was now being set.

Although Damasus and Ambrose were able to keep the West relatively free from imperial oppression, they were unable to detach themselves from the empire. They were Romans and seemingly could not clearly separate their loyalty to the empire and their service to the Church. Although the West was much more reluctant to trust the State than the East, problems still remained.

\textsuperscript{17}Ibid., 74-5.

\textsuperscript{18}Ibid., 75-6.
The Church in her long struggle had become more mature, more mistrustful, as it were. She no longer threw herself with her previous enthusiasm into the arms of an emperor, even if he was completely orthodox, but she also did not renounce her basic sympathy for a protecting State. But there was still the vital unanswered question: Where lie the boundaries between Church and State, even a State that is Christian and favorable to the Church? Or to view the same problem from the standpoint of Christians at the end of the fourth century: Was it not cheap opportunism to complain of an evil State and a renegade emperor when he persecuted the Church and opposed her liberty, and then, when government and emperor joined the Church, to forget the past and to persecute heretics with State aid and accept protection and well-being from the state’s generosity? 19

The issue of separation of Church and State would be one of the main issues facing the Church in the fifth century. In this century the Roman Empire was split in two which set up a weakening of the Western Empire and its eventual collapse, as well as allowing a political atmosphere of the alienation between the East and West.

This condition allowed the West greater freedom from Constantinople than the previous century. In this time persons of great stature led the Church, Augustine of Hippo, Pope Gregory the Great, Innocent I, and Gelasius I. As Rahner states there were no great victories or defeats at this time, just an opportunity to further reflect and develop the Church’s relationship with the State.

In this century Augustine and those after him attempted to give some guidelines to the emperor and what his relationship was to be with the Church. The “good emperor” was one who encourages the observance of God’s laws, orthodox faith, and removes

19Ibid., 68.
heresy from the midst of society. Pope Innocent I at the beginning of the century put a concerted emphasis on the primacy of Rome within the universal Church. There was a clear need for a unified pastoral authority within the Church, as Rahner states:

> Without a unified pastoral authority at the highest level, no uniform law is possible in the Church, and without law there is no freedom. This was well understood throughout the Church even in the East, and it is understandable that the East thought to create a center of supreme authority first at Alexandria, then, with the help of the State, at Constantinople. But this center was essentially different from that in the West because only Rome’s right to guide the whole Church has a theological foundation. Augustine once affirmed in a letter to pope Innocent (416) during the struggle over Pelagius’ teachings that recourse to Rome is based on the fact that the supreme authority of the pope can be drawn from Sacred Scripture.

Toward the end of the fifth century it began to be evident that the emperors in Constantinople not only oversaw the actions of bishops but began to issue their (the emperors’) own creeds on the Christian faith, some of which were in denial of faith and the teachings of the general councils of the Church.

> Very soon it would be clear that the freedom of the Eastern Church was in dire straits and that the government in its religious policy of seeking peace at any cost followed closely the ups and downs of the theological disputes so that only the emperor’s will time after time gave direction to religious policy and doctrine. And the direction changed with every emperor. For the first time in the Church’s history (if we prescind from the creed imposed by Constantius at Rimini, which even there,

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20 Ibid., 138.

21 Ibid., 134-5.

22 Ibid., 149.
to preserve appearances, was offered for the bishop’s approval) an emperor had the audacity to prescribe for the whole empire a new creed on his own authority and without consultation with a synod. In 475 there appeared the so-called Encyclikon, an imperial circular letter.\(^{23}\)

In 492 AD pope Gelasius was elected the Bishop of Rome. It is this Church leader who for the first time speaks clearly of the need of separation of Church and State.

The two powers do not operate side by side but hierarchically.

Courteously but firmly he explained his way of thinking to the emperor. This is the letter that contains his reference to the two powers that will influence the next millennium. What Augustine regarded as a lofty ideal, Gelasius made tangible; the ideal of the State as the Church’s helper, of two powers in peaceful collaboration ‘ruling the world’.

Gelasius’ genius lay in the fact that he did not declare that the two powers deriving directly from God, Creator and Savior, should exist side by side, an impossible situation and one repugnant to God’s will, but rather that they should be hierarchically ordered, like soul and body, the spiritual superior to the material, because only in subordination is the material power’s true worth maintained. His second point, suggested in some texts by Augustine, is that the heavenly city is concretely identified with the visible Church and its head instituted by God, the Bishop of Rome.\(^{24}\)

The fifth century closed with the election of pope Symmachus. His enemies stated that he was a perpetrator of crimes and was to be brought to trial. Once again the Church appealed to the State. However, this time it was not to the emperor in Constantinople but to the Ostrogoth’s chief, Theodoric at Ravenna, who was Arian.

Soon after this the pope welcomed Theodoric in Rome with full imperial honors, much to

\(^{23}\)Ibid., 152.

\(^{24}\)Ibid., 156-7.
the anger and outrage of the emperor in the East. The emperor charged the pope with a
false election to the papacy and conspiracy against the State. Symmachus very directly
denies the charges to the emperor and reprimands him that he is not to play the accuser
falsely. The pope goes on to lecture him on his lack of values and standards while all the
while the successor of Peter stands strong in the leadership of the flock. The fifth century
ends with this strong rebuke of the emperor at Constantinople and allows the entrance of
a new relationship with the State.

The final piece that is added to the paradigm of early Church - State relations is
that ecclesiastical leadership understands it is without temporal power. The leadership
must be willing to accept weakness, and endure the sufferings and harassment as had the
early bishops, during the age of martyrs. Christendom could be just as dangerous and
problematic as the pagan Empire.²⁵

In the sixth century the Church found itself under a prolonged harassment, and at
times, persecution by Justinian, the emperor of Constantinople from 527-565 AD.
Justinian, like Constantine, desired a uniformity of faith. Basically, religion was a tool to
serve the empire. The difficulty that Justinian and other emperors of the East faced was
that of the monophysites in Egypt. This faction continually forced the East to be soft or
even to compromise the teachings of Chalcedon and the Tome of Leo. Since Egypt was
an important economic cog in the empire, the emperor Justinian turned West and began to
mount an assault on the papacy, pressing the papacy in Rome to compromise this general
council.

²⁵Ibid., 157-60.
To add to this difficulty for the popes was the dissolution of the Roman empire in the West. The incursions of the Goths and the Lombards forced the papacy to keep these powers beyond arms’ reach. To the credit of the Roman papacy it endured through this chaos without compromising the faith. Although at its low point pope Vigilius was finally pressured into signing a document which again condemned the writings of some earlier Church leaders (this document, called the “Three Chapters,” gathered the erroneous positions of Theodore of Mopsuestia, Theodoret and Ibas). The repeat of the condemnation of the writings of these men, especially after they retracted their heretical positions and were entered into communion with Chalcedon, was seen as derogatory of that general Council.\(^\text{26}\)

A careful study of the Three Chapters convinced Vigilius that, in view of their contents, they could be condemned. So on April 11, 548, he published his *Judicatum*, which anathematized them while reaffirming the validity of the Council of Chalcedon. The aftermath, in the West, was terrific; a Council at Carthage went to the length of excommunicating the pope until he did penance. All the Western dioceses were in an uproar. Facundus too withdrew obedience from the Pope. Vigilius, intimidated, begged the emperor to lay the whole question before the new council.\(^\text{27}\)

During this time it was not unusual for a pope to be summoned to the East and be imprisoned and/or exiled for maintaining the faith and refusing to compromise it. Pope John I, Pope Agapitus, Pope Silverius, Pope Vigilius and Pope Martin I were some of the pontiffs suffering under the tyrannical oppression of the Christian emperors in

\(^{26}\)Ibid., 185-203.

\(^{27}\)Ibid., 199.
Constantinople. In the following centuries the Church began to be more and more distanced from the Roman Empire (now the empire in the East). She began to see her destiny with Europe as the door of Constantinople began to be closed to them. By this time the early Church had fairly well set her tradition and principles of Church and State. \(^{28}\)

The Church in these first centuries understood that she was a partner with the State in the society in which they both lived, whether that partner was supportive or destructive. From the earliest part of her tradition she realized that like herself the State was created by God and it ruled by his power and decree. The Church therefore always held a basic respect for the State no matter what its relationship was with itself. Its ‘no’ to the State was always to protect its life of faith and doctrine.

Because the State was from God, the Church did not refrain from asking the State for aid and assistance in doing its work; this was true especially from the advent of Constantine on. This contact with the State clearly threatened her life of integrity with the faith with pressure from imperial authority to compromise it. The refusal to compromise the vital areas of faith became the catalyst that would forge the principles of separate powers and duties specific to the Church and to the State. This principle of separation between the two powers also recognized the Divine Institution of the State.

These principles were pillars that directed the Church well into the Middle Ages and beyond. The Church in much of her experience saw the importance of being involved with the State and to be a supporter of it, especially because much of her

\(^{28}\)Ibid., 225-45.
experience would be with Christian nations. The State was integral to her life and she to its. The principle of a separation did not exclude that they must work closely together in harmony, aiding each other though respecting their differences.

The Church’s advocacy role in the times of the empire was one which supported the empire in its work of protecting and furthering the common good. She felt that her task of evangelizing and sanctifying her people was a task with which the State could help. Her advocacy was then seen as being a partner with the State, not, however an equal partner as she was called to the more noble work of sanctifying of the people. Also the prophetic role of advocate and protector of Christ as truth is very strong in these centuries. These were the centuries of the great Christological controversies and much of the Church’s time and energy was spent in this role of advocate of Christ’s truth of who he was and the saving work he did.

Moving into the middle ages Father John Courtney Murray will be our guide, using his articles from the magazine Theological Studies. At this time the traditional teaching of Church and State and their distinct powers remained intact, with the Church being the more dominant and influential force. The Church was free under its own laws. The State was limited to administrative functions and protecting of the good order of society and the temporal welfare of this society. The State was part of the Great Society (Christian Society) along with other organizations and organized groups which allowed the society to flourish, e.g., guilds, hospitals, mercantile shops, etc. The medieval societies many times possessed a type of constitution which established limits and freedoms of these different societies. The Church was the dominant institution among the
others and was jealous of its freedom and influential role in society. Those areas of life which were part of the spiritual life as well as temporal, e.g. society values of respect, honesty, justice, the Church saw herself as a partner to the State and expected to have a voice on how these were to be a part of society. Areas which were clearly temporal the Church more often than not left the State to handle and govern.  

In the 12th—13th centuries a shift occurred in Church-State relations. The temporal power of the State had always been viewed as coming directly from God. Now with the hierocratic thought of this age all authority was seen as coming from God through the pope. The portion of the rule which was temporal was then delegated out to the princes who would act to preserve the common good and safety of society, and do so as a vassal of the pope. Thus the work of the prince was now to begin to look after the freedom of the Church and the Church’s interests, as well as the State’s. This interpretation had the unfortunate effect of reducing the two separate powers in society down to one in practice which was the Church.

In the order of fact the foundation was the sweeping jurisdiction over the temporal order exercised by the great medieval popes, notably Innocent III, Gregory IX and Innocent IV; the theory sought to rationalize these facts, notably under the leadership of Innocent IV writing as a canonist. In the order of ideas the foundation was the concept of a unitary social order dictated by the mystical metaphysic of Dionysius the Areopagite—that law of unity which was ever the conscious postulate of medieval thought. The two powers had to be induced to unity in the unique supremacy of spiritual power—a supremacy that required the temporal power to be, in the order of origin,  

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from the spiritual power, and consequently, in the order of finality, for the spiritual power. This great law of unity, if it did not displace the dualistic conception of Gelasius, at least so overshadowed it as profoundly to modify its sense and implications.\(^\text{30}\)

In the next centuries this relationship of the prince to the pope was to change again. In the late 13\(^{\text{th}}\) and early 14\(^{\text{th}}\) century the French king, Philip the Fair, rebelled against the position of vassalage and established the independence of France and the authority of his reign. As head of this emerging nation not only did he press for his sovereign right but demanded that the political unity of the nation was its political right. Philip the Fair established royal power in the temporal order outside the mediation of the papacy.

Against this system Philip rebelled in the name of the independence of his kingdom and the autonomy of his kingly rule. His pretensions went, of course, far beyond mere political autonomy, to a “program of religious caesarism.” Nevertheless, for all the exaggerations in his claims and the pridefulness of his statement of them, Philip had some ground to stand on—the ground of political fact. On the other hand, Boniface VIII, in his firm personal conviction of the immutability of the medieval system (of which, it has been said, the *Unam Sanctam* was in reality the epitaph), mistook the factual situation. In point of political fact, Philip was not a feudal overlord, in vassalage to the emperor, but a sovereign in his own right and head of a nation which regarded itself as an independent political unity. Moreover, what ever the theories of canonists, Boniface did not in fact possess the two swords, but only one. The temporal sword was indeed accountable to him for its acts insofar as they had spiritual and moral

implications; but the temporal sword was not within his delegation because it was not within his possession.\textsuperscript{31}

The reign of the nation states in Europe with their monarchs created an absolutism of rule which destroyed the previous medieval structure. These monarchs destroyed the distinction between the State and society. Thus, there began to develop what Father Murray refers to as the religion of the State, which, in fact, debilitated the freedom of the Church and established a new Church-State relationship which was in the form of a static formal legal concord.

This corruption did not begin with the ‘principles of ‘89,” or even with the Reformation. It began with the beginnings of the State absolutism which became the distinctive mark of the \textit{ancien regime}, setting it off sharply from medieval polity, whether imperial, royal, or municipal. The most fateful, corrupting consequence of absolutism was the development of the notion of sovereignty as one, indivisible, and omni competent. Absolutism enthroned the unchristian principle of the primacy of the political, the supremacy of the \textit{raison d’Etat}. It led to the irrational idea of law as simply the command of the sovereign. It destroyed the Christian concept of an organic society, whose several orders and institutions have their own autonomy and freedom. It canceled out all distinction between State and society.\textsuperscript{32}

This same union of Church and State existed during and after the Reformation. The faith of the prince was the official faith of the government with little chance of free expression of another faith to be allowed.

\textsuperscript{31}Ibid., 180.

In the post-Reformation era the constitutional question became not only complicated but highly confused. The basic Hildebrandine principle was lost from view. The care of religion by the prince, Catholic or Protestant, came to be determined by the territorial principle (first enunciated by Luther) and by the view, common to Catholics and Protestants (as an afterimage of the medieval doctrine of the two swords), that the power of the prince is to further the cause of religion and persecute religious error.

Gradually, however, the principle of freedom of conscience came to be commonly accepted. But the principle of the free exercise of religion was not accepted.  

The presence of the monarchy and its absolutism in Europe began to be challenged by the new form of absolutism, which Father Murray referred to as totalitarian democracies. The challenge and eventual replacement began with the French Revolution toward the end of the 18th century. This new form of government was something that the Church had not experienced. This form of government took its first expression from the secular liberal philosophies being developed earlier in the century. This expression of government entered into conflicted relationship with the Church on a number of serious philosophical differences. The liberal secularist governments were totalitarian governments whose philosophy was to be co-extensive with the whole of society. All of society was included under the State and its philosophy of secular liberalism.

The Church was harassed not only because of philosophical differences with the State, but also due to the practice of anti-catholic prejudice in the school systems and repression of free religious expression within the society itself. The totalitarian regime

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espoused a “lay” view of the world. Its power is not from God but from the human being and human reason interpreted by the liberal secular government.\textsuperscript{34}

The forms of government before the royal monarchies were indeed difficult to deal with, but the Church could deal with them and still keep the teachings of being a Church founded by God not by the monarchy, even though this meant serious compromises. With the liberal secularist governments this authority of being established by Divine Authority is directly refuted. With this form of government there is no compromise possible.\textsuperscript{35}

But there comes a point beyond which concession and compromise cannot go; and it was reached early in the course of the Revolution. To the absolutist program of the politicization of all social life, including religious life (begun with the Civil Constitution of the Clergy), was added a program of the dechristianization of France, its “laicization,” as the Jacobin phrase had it. In addition to being the embodiment of an absolutist political theory, the state became the active vehicle of a secularist ideology that assumed the character of a religious faith, a faith as exclusive, as universal in pretension, and as exigent of total devotion as any religious faith. The Revolutionary purpose ceased to be purely political and undertook to be totally redemptive of man. And the One Indivisible Sovereign of Rousseauist theory assumed the messianic task of propagating his one true religion, first by a program of persecution and later, more insidiously, by a program of education.\textsuperscript{36}

\textsuperscript{34}John Courtney Murray, S.J. “The Church and Totalitarian Democracy,” \textit{Theological Studies} 13 (1952), 529 ff.

\textsuperscript{35}Ibid.

\textsuperscript{36}Ibid., 527-8.
The qualities of the totalitarian democracy centered around the assumption that man is primarily a political creature. Fulfillment is in the work of the citizen and political activities. It is the framework in which human life unfolds. Along with this is the doctrinal ideology of the ruling secular party which views its doctrine as the sole and full expression of the truth. This replaces the position of the transcendent in human life. There is to be no compromise with the vision of the truth. Politics begins to assume a messianic vocation in human living. From this there is developed the State morality or ethic demanding complete adherence and loyalty. All reference to the transcendent in humanity is eliminated. The State then is the instrument which will propagate the secular views and morals of the ruling party in all its areas of education harassing other organizations and institutions with differing views of human life, especially the Christian faith.  

The first postulate is that there is only one plane of human life, the political. Man is simply a political creature; he wholly fulfills himself in being citizen. Politics embraces the whole of life. All thought and action are social in significance, and therefore are to be brought under political control. Not only of the primacy of the political, but of its exclusive, all-embracing character.

It was this type of government that Pope Leo XIII faced at the closing of the 19th century. In the reading of the signs of the time this Pontiff understood two serious problems facing his people. One was the misery that was brought into their lives by liberal capitalism to which the encyclical Rerum Novarum was addressed. The second

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37Ibid., 529-55.

38Ibid., 536.
was the untutored passive illiterate masses of 19th century Europe. The above mentioned liberal secular government of Europe was involved in a propaganda effort that seriously threatened the Church and much of its rich tradition for human life. A renewed effort was to be made to interrupt this propaganda. The pontiff lobbied continually for a laity which would receive a formation and education in the Christian tradition.

What Leo XIII confronted was the post-Reformation confessional nation-state *a rebours*. It was the lineal progenitor of the people’s democracy of contemporary Communist theory. The public philosophy was atheism; it alone had public rights. Religion had no public rights; it was to be exterminated from the public domain by the power of the state. This juridical order and this form of polity were characterized in rationalist theory as “ideal.” To the rationalist mentality, which is untouched by historical consciousness, discourse about “ideals” in law and politics is congenial. The rationalist deals in theses, in ideological propositions that are not derived from historical reality but are to be imposed upon it.

Leo XIII was not untouched by the logic of contradiction; no controversialist ever is. Hence he constructed his own conception of confessional state. He made his defense of the *status quo ante*. In common with the whole European Church in the nineteenth century, he formed part of what is called the Conservative Reaction.

Father Murray’s analyzes the ideal State of Leo XIII in five different aspects.

First, it was to be dedicated to the common good which was committed to the care of the prince. The social order was not a grass roots society but one that was imposed from above by the prince. Second, all authority is from God. The prince was one who

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40 Ibid., 537.
received power from Divine Power itself. Thus the “principles” were agents responsible to no one else for how the social order was carried out. Third, as was mentioned above, the illiteracy rate of the people in many of the “Catholic states” was extensive. Thus, the ruler had the obligation of being a “father” to his people. The people seemed not to be responsible in the political arena of life. Thus, a paternal aura was cast over the society, demanding from the subjects a certain obedience and piety. Fourth, there was to be one faith (Catholic) in one society. This faith was to be protected and publically celebrated and encouraged by the government. Fifth, tolerance was permitted only for safeguarding the common good, i.e. gaining a greater good or avoiding a greater evil.\footnote{Ibid., 537-9.}

Thus the view of Leo XIII was quite conservative and was of course, built to preserve the Church and the faith of the people in very difficult times. Father Murray notes that Leo XIII did develop a type of dual authority reminiscent of the two powers of Gelasius.

Father Murray gives us a nice sketch of the Church’s relationship with the State from the Middle Ages to the end of the 19th century. The Church’s relationship shifts from one of dominance to almost subservience to the monarchies. It shifts again to being fractured with the reform and the difficult questions of religion and conscience. Finally, it moves to one of antagonism with the secular philosophies of the 18th and 19th century European governments. The Church’s advocacy role then shifts with the history that she experiences. In the Middle Ages she is a dominant presence in society. She is the advocate possessing real power controlling princes, guilds and other areas of society to
help her do the work of sanctification and direction of souls to God. She is so dominant that she sees herself as the possessor of both powers, civil and religious. Traditionally distinct by the teachings of Gelasius, they are now one in her from God. The advent of the national monarchies reduces her role to one in which she strives to exist with powers outside her control, in fact many times in control of her. Her advocacy role is to compromise in order to still maintain her presence with the people and to still be effective as their instrument for spiritual direction and sanctification. Her energies as advocate begin to shift again with the reformation. She sees herself to be the guardian of the truth of Christ’s revelation which under attack by heresies and her advocacy is to aggressively pursue and implement the Catholic truth where she can. Finally, with the advent of what Father Murray calls “totalitarian democracies” she is locked in mortal conflict with forces which are anti-religious. Her role of advocate is to protect her people from the godless philosophies of secular governments who would destroy the very spiritual life of her members.

With the advent of Pius XII as successor of St. Peter in the mid 20th century a new change took place in the understanding of the Church’s relationship to the State and to society. Pius XII did not accept the principles of the State laid out by Leo XIII. The paternal view of government was replaced by the realization that the people had come to an awareness and consciousness of their role in directing their own affairs. They were now not so much subjects as citizens. The emphasis shifted more to the dignity of the individual human person rather than the common good. The common good could be obtained by respecting the individual citizen and his/her inherent rights. Pius XII, in
reading the signs of the times of his age, saw the threat of communist totalitarianism and the rising of the awareness of people in regard to their rights and dignity. Pius XII taught that the citizen was to be immune from the coercive power of the State in regard to his/her religion. The State was not coextensive with society but rather a player in society responsible for the safety and welfare of its people. The State was not competent to deal with matters of religious truth or areas of conscience. Father Murray gives an excellent summary of the shift enacted by Pius XII in the developing doctrine of Church-State relations.

It is not difficult to assemble from the vast corpus of Pius XII all the principles that were marshaled above in support of the Second View: (1) the theological—the dyarchy, the freedom of the Church, the freedom of the act of faith; (2) ethical principles—religious freedom as the rightful exigence of the contemporary personal and political consciousness; the insight that the free man, bound by duties and endowed with rights, is the origin and end of the social order; (3) the political principles—that the public power is not the judge of religious truth or of the secrets of conscience; that the primary function of the public powers is the vindication of the juridical order of human and civil rights, i.e., the fostering of the freedom of the people; (4) the juridical principle—that the criterion for public restriction of religious freedom is some necessary requirement of public order; (5) the jurisprudential principle—that necessity, not possibility, is the further criterion for coercive inhibition of the free exercise of religion.

The contributions of Pope John XXIII and Vatican II continue and develop the initial shift of Pius XII. Father Murray sees two areas which John XXIII adds to the shift.

42Ibid., 543ff.

43Ibid., 552.
made by Pius XII. First, John XXIII develops the concept of constitutional and human rights. The State finds its role and definition in being the defender of these rights, both civil and religious for all peoples. The second development is the emphasis on the virtue of freedom. Father Murray sees that this Pontiff speaks not just in the traditional triad of truth, justice and love, but also the essential values of freedom. It is that virtue and value which allows a society to be more than just stable. It allows it to be a dynamic enterprise of development of human potential in society and a guard for protecting the dignity of the human person.⁴⁴

Vatican II issued in clear statements that the Church no longer holds to the philosophy of the confessional State conceived by of Leo XIII. The work by Pius XII and John XXIII came to fruition in the documents of the Second Vatican Council, Dignitatis Humanae and Gaudium et Spes. The title of the Declaration on Religious Freedom, Dignitatis Humanae, gives the basic ground of the Church position on Church-State relations. God authors human nature and endows it with rights from nature. The Church teaches that the work of government is to protect the individual’s life and to ensure that his/her rights are safeguarded. Among the basic liberties that government is to guarantee is religious freedom. Although the human being is obliged to move to and adhere to the truth, it is to be sought after in an atmosphere of freedom protected by the State. This religious freedom extends itself to the family and to the society. The human person is a family person and a social person. Religion is therefore expressed in public and in familial life. Its values are publically expressed and passed down by parents to children.

⁴⁴Ibid., 553ff.
The council clearly teaches its concern that the State respect and foster this inherent right of the human person in all of its dimensions.45

However, the social nature of man itself requires that he should give external expression to his internal acts of religion; that he should participate with others in matters religious; that he should profess his religion in community. Injury, therefore, is done to the human person and to the very order established by God for human life, if the free exercise of religion is denied in society when the just requirements of public order do not so require.

There is a further consideration. The religious acts whereby men, in private and in public and out of a sense of personal conviction, direct their lives to God transcend by their very nature the order of terrestrial and temporal affairs. Government, therefore, ought indeed to take account of the religious life of the people and show it favor, since the function of government is to make provision for the common welfare. However, it would clearly transgress the limits set to its power were it to presume to direct or inhibit acts that are religious.46

This council not only acknowledges the right of religious freedom for herself and for all faiths, but sees that it is not limited to what would be viewed as just ‘religious rights’. The mission of the Church is also to the welfare of humanity in toto. The Church views its role as not just spiritual, but from this spiritual basis reaches to the whole of human life, economic, political, cultural, as we have seen from the first two chapters of this paper. The council document, Gaudium et Spes, clearly teaches the mission of the Church goes beyond the properly religious or spiritual aspect of humanity to the whole person. Gaudium et Spes portrays the balanced relationship the Church


46Ibid., 681.
wishes to play in the political and temporal arena of human society, but still reserves her right to speak out on issues of social justice.

It is highly important, especially in pluralistic societies, that a proper view exist of the relation between the political community and the Church. Thus the faithful will be able to make a clear distinction between what a Christian conscience leads them to do in their own name as citizens, whether as individuals or in association, and what they do in the name of the Church and in union with her shepherds.

The role and competence of the Church being what it is, she must in no way be confused with the political community, nor bound to any political system.

But it is always and everywhere legitimate for her to preach the faith with true freedom, to teach her social doctrine, and to discharge her duty among men without hindrance. She also has the right to pass moral judgments, even on matters touching the political order, whenever basic personal rights or the salvation of souls make such judgments necessary. In so doing, she may use only those helps which accord with the gospel and with the general welfare as it changes according to time and circumstance.47

Vatican II concludes this short exposition of what was a long and, at times, arduous development of the Church-State relations which spans close to two millennia.

In the midst of this journey another experience began to develop. This particular experience rooted in Europe grew and developed in another a continent with its own perspectives.

Before we look at that journey in America, let us look at how the Church has again changed its advocacy role. Beginning with Leo XIII in Revum Novarum, the Church perceived new changes taking place in society and human life. Social questions revolving around capital, ownership and just distribution of goods began to be discussed.

Workers’ rights, rights of religious expression and conscience are beginning to occupy the Church’s attention. It is in these social issues of economics, politics and human freedom that the Church will develop her advocacy role which we saw in chapter one. In the later twentieth century the questions of justice and freedom for the individual and for society will be one of the central areas in which the Church will be concerned.

Section II: Separation of Church and State in America.

Philip Hamburger, in his book Separation of Church and State, gives an excellent review of the two hundred year history of the concept of separation of Church and State in America. As we have seen, the first symbols of separation arise from medieval times and earlier. Later, the Reformers of the 16th and 17th century spoke of an enclosure or wall which separated the garden (Church) from the wilderness (world). The garden was the image of peace, order and completion walled off from the chaotic and, many times, sinful ways of the world. Hamburger states that this image of the garden and wall projected the vision of a Church in a fallen world. The Church, which was clearly not of the world, was protected by the wall, but placed in the world.

In the late sixteenth century and early seventeenth centuries Richard Hooker, a noted apologist for the union of Church and State saw symbols and the ideology of separation as not only wrong and distasteful, but dangerous. This argument was mainly directed against the Congregationalists and Presbyterians who dissented from the union of

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49 Ibid., 29-32.
Church and State. Their dissent was against the Anglican Church and what was perceived as corruption of the hierarchy and ‘papist’ rituals and authority. For Hooker separation of Church and State would be divisive to society. Hooker believed the dissenters took separation too far. Church and State were different functions of the one community. As we shall see later on the dissenters did not want an absolute wall of separation. Rather their difficulties were with the establishment of a religion by the State and the use of the State’s treasure and power to dictate the faith, religious values and loyalty for one Christian sect or religious organization, namely the Church of England. The term separation of Church and State was a term of derision by Hooker and his allies to disparage the religions dissenters in Britain.50

In the middle of the 17th century Roger Williams was initiating his reform in the colonies in America. Roger Williams came to embody the image of a radical separatist who condemned any Church which would even admit ‘unregenerates’ into their worship services let alone have any contact with civil authorities. The establishment of a religion rendered the congregation impure with their acceptance of pay, honor, and privileges. Rogers was dissatisfied with any show of ministerial status which could possibly indicate a show of pomp. His prophetic mission, as he saw it, was to purify the Church from the world. The separation of Church and State was totally and completely to protect the purity of the Church.51

50Ibid., 32-8.
51Ibid., 38-53.
The later seventeenth and eighteenth century had few advocates for the separation of Church and State. Those that did, did so on an anti-clerical view of the Church. John Locke wrote concerning a type of separation which was more in terms of distinction of function within the society. Locke had no problem with the establishment or support of religion by the State. He basically desired that the State allow the policy and practice of toleration of religions or sects within the civil sphere of life, with the exception when one would act against the safety and welfare of the whole community.\textsuperscript{52}

In 1760’s and 70’s a British Whig by the name of James Burgh began his cause of separation of Church and State which is expounded in his two volume work entitled, \textit{Crito}. Burgh forsook the Presbyterian faith of his youth to become a Unitarian and took up the concerns of religion in terms of the individual and one’s God. Faith is entirely a matter of conscience. For Burgh religion practiced in England, at that time, was a sham, a human invention which acted more as a distraction; and in no way had any rights or privileges from the civil government. James Burgh was perhaps one of the more radical exponents of separation of Church and State at that time. However, his followers were not many. Separation of Church and State was still a minor position both in England and in America.\textsuperscript{53}

In 1783 the General Association of Separate Baptists assembled and petitioned the House of Delegates of the state of Virginia to do more in distancing itself from the

\textsuperscript{52}Ibid., 53-64.

\textsuperscript{53}Ibid.
Episcopal Church, implying that the connections between the state of Virginia and the Episcopal Church were so interconnected as to violate the rights of other faiths in society.

The closest American dissenters came to demanding separation of church and state may have been in a Virginia memorial of 1783 from the General Association of Separate Baptist. Assembling at Dupuy’s Meeting House in Powhatan County, the Association petitioned the House of Delegates for greater equality under the laws regulating vestries and marriages. These Baptists sought revisions to ‘the vestry law’ because, under the existing statute, Episcopalian vestries set parish poor rates, and therefore Baptists were ‘liable to be taxed, without representation.’ The Baptists also wanted amendments to ‘some parts of the marriage act,’ which, in 1780, had given legal recognition to marriages conducted by dissenting ministers but had not gone so far as to put these clergymen ‘on an equal footing’ with their Episcopalian counterparts. Although these Baptists sought laws recognizing Baptist religious ceremonies and altering Episcopal vestries, they concluded by praying for redress of our grievances, and that no law may pass, to connect the church and state in the future. In light of their specific requests it may be doubted whether they considered the potential implications of a disconnection. They probably were merely responding to conventional fears of an illicit connection or union—the sort of connection that amounted to an establishment. Nonetheless, this Baptist petition reveals how already in the eighteenth century Americans could begin to conceive of disestablishment as a rejection of all connection between church and state.\(^\text{54}\)

Along with the dissent of the Baptists in Virginia and James Burgh the only other notable voice for separation of Church and State was American patriot and philosopher Thomas Paine, who clearly had no time for religious establishment. The Marquis de Condorcet spoke about a separation also, especially to remove the power of the clergy

\(^\text{54}\)Ibid., 58-9.
from civil affairs and to leave them to do the work of the Church. However, these voices were not the voices of the people, and the question of separation remained unpopular.\textsuperscript{55}

It is important to note that toward the end of the 18\textsuperscript{th} century there was a strong movement in America to keep clergy from holding office in civil governments. Although clergy were representatives in Congress and in the state Houses, the Americans of this era began to feel uncomfortable with their ministers being also ministers of State. But as Hamburger points out it was not over the issue of separation of Church and State.

Thus Americans barred clergymen from civil office for many reasons, including an odd combination of Calvinism, anti-Catholicism, theories of taxation and representation, solicitude for the clergy, and suspicion of the clergy. Strikingly, however, Americans did not exclude the clergy on grounds of separation.\textsuperscript{56}

In America the eighteenth century concludes with the reality that despite the First Amendment to the United States Constitution that ‘Congress shall make no law respecting an establishment of religion,’ established religions did exist in some states, e.g. Massachusetts and Connecticut. The understanding was that while Congress was not empowered to establish a religion for the nation, states could do as they wished.

In New England the dissenters (those who protested established faiths) were protesting only the fact that a favoritism was shown to some faiths by financial support, privileges and special honors in society. The dissenters’ concept of separation of Church and State was not in the absolute sense as in the present day. These dissenters wished

\textsuperscript{55}Ibid., 59-63.

\textsuperscript{56}Ibid., 83.
only equitable treatment but desired deeply that government and religion work together. Government was to be an aid to religion and religious values in general, but was not to favor one denomination over another. They did not wish a constraint on religious activity by the government but rather a constraint on the government in its policies of inequality.\footnote{Ibid., 92-100.}

The beginning of the 19\textsuperscript{th} century began with the election of Thomas Jefferson as president of the United States. With this comes the advent of the Republican party (the term used at that time to designate the party of Jefferson and Madison, not the party of Lincoln used later) with its vision of egalitarianism for the American citizen (albeit white and male). Part of this vision is a more profound and more severe separation of Church and State held by the dissenters. The Republican view was one which would demand constraints on religion as well as government. In New England the Federalist party was still quite strong and it tended to hold a view which felt comfortable with Church and State having close ties. The following long quote is a good summary of these two opposing political parties.\footnote{Ibid., 130-4.}

\begin{quote}
According to Federalist, the people of Connecticut distinguished themselves by their "steady habits"—by their habitual attachment to custom, self-restraint, and virtue. Unusually capable of this sort of self-government, the inhabitants of Connecticut reputedly required little law and so possessed greater freedom, with more security, that the people of any other state. Federalists understood that the steady habits and freedom of Connecticut thrived amid the state's intertwined familial ties, social connections, and religious establishment, and that, of these, the religious establishment, known as the "standing order," had a
\end{quote}
particularly important role in inculcating the people’s steady habits. Thus steady habits and the standing order—tradition and established clerical authority—formed a social landscape in which, according to Federalists, the people enjoyed exceptional virtue and freedom. In contrast, Republicans envisioned a nation of equal citizenship. Resentful of the standing order and its inegalitarian privileges and expectations of deference, Republicans hoped for a society in which individuals engaged in politics independently, unburdened by the customs of their forefathers or the authority of their ministers. Accordingly, Republicans urged that, especially in Connecticut, each man should free himself of clerical influence and interference.\textsuperscript{59}

Also with the advent of the 19\textsuperscript{th} century came the phenomenon of millenialism. Optimism was the spirit of the day. Confident in their young republic and in themselves, both the Federalist and the Republicans saw the dawning of a new age of humanity. For the Federalists it was because of the interaction of new freedoms in America with Christian freedom. They could now interact so as to usher in the new age. For the Republicans it was the opposite. For them it was freedom from oppressive religions, and that the human being would, for the first time, finally be set free.

Ironically, while Republicans demanded that Federalists clergymen separate religion from politics, Republicans themselves imbued their secular politics with profoundly religious sentiments. They sought to transform the politics of this world, and in so doing they often described secular politics as the means of achieving religious and even millennial ends.

Millennialism could take various forms. As shown by Nathan Hatch, the New England clergy, especially Federalist establishment ministers, espoused a type of national millennialism. According to these clergymen, Christianity and free government each flourished in the context of the other. Inextricably connected, Christian

\textsuperscript{59}Ibid., 123f..
In 1802 Thomas Jefferson wrote a letter of reply to the Danbury Baptists who supported his election. They wrote to the president looking for some guidance in their plight with established religion in their state of Connecticut. In the reply Jefferson set forth his sentiments of separation of Church and State. In this letter was phrased the now famous metaphor that the constitution had built a ‘wall of separation between Church and State’. Jefferson upheld the complete separation of the two spheres and hoped this letter would be a catalyst to further this cause in the Federalist stronghold of New England, especially among the non-established religions. It is interesting to note that the Danbury Baptists never published the president’s letter to them or even used Jefferson’s words about separation. Hamburger summarized the typical Baptist view of Church and State in the following quote.

An American Baptist—somewhere at some time during the early nineteenth century—may have demanded a separation of church and state, but no Baptist organization or even any individual Baptist has thus far been identified who unmistakably took such a position. As William G. McLoughlin points out with respect to New England.

“No...Baptists...ever utilized Jefferson’s phrase about the

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60Ibid., 133-4.

61Ibid., 155ff.
wall of separation, though he had obviously coined this term with the Connecticut Baptists specifically in mind.\textsuperscript{62}

However, in the early part of this century the concept of separation of Church and State began to take hold and to have some acceptance with the people. The Republican successors of Jefferson, Madison and Jackson, developed the doctrine of separation of Church and State as a political ideal to be embraced by the Republican party.

In Madison's view “all corporations,”“ecclesiastical or other, ‘bought to be limited’” in their power to accumulate property in perpetuity. Not so much a problem of establishment, this was an issue of mortmain and monopolies, and it suggests that Madison's growing fear of church influence affected his views on religious liberty, including his willingness to conceive of the constitutional religious freedom as a ‘separation of Religion and Government.’

Separation was a conception of disestablishment that allowed Madison to express his hopes that Christianity would be so pure as to focus only on the next world, and it thereby permitted him to hint at broader prohibitions than those implied by more conventional anti-establishment ideas.\textsuperscript{63}

In the early nineteenth century, as was stated above, the Republican party supported separation of Church and State, but it never gained the support of the evangelical dissenter or of those more disposed to the establishment traditions. Religions in the early 1800’s were seen as paramount for the formation of values for government, society and the individual. The government was viewed by this portion of the population as having the obligation of supporting and encouraging religious activity. Government was to be the defender of religious values in society.

\textsuperscript{62}Ibid., 177.

\textsuperscript{63}Ibid., 182-3, 185.
The mid-nineteenth century began to see the advent of two major attitudes which impacted the question of Church and State greatly in the United States. The first was anti-Catholic prejudice and the second was the advent of liberal secular thought. In regard to the anti-Catholic attitude it is important to know that at this time Irish and German Catholic immigrants began to enter the United States in considerable numbers. The embers of suspicion which accompanied many of the Protestant Churches from Europe blazed into a large and continuous conflagration of anti-Catholic sentiment which was a major issue in politics for this nation up to the end of World War II. Anti-Catholic sentiment was part of politics locally, nationally, being even a part of presidential elections. Two issues particularly flamed the fears of a Catholic establishment in the United States. The first issue was the support of private schools by government aid. This issue was particularly strong in New York State where the influx of Catholic immigrants was the strongest. In the public schools at the time religion, a ‘sort of general non-denominational Protestantism’, was taught based on instruction from the Bible, including prayer. This use of State funds was not considered a violation because government was to further the cause of religions in society. This was accepted even among those who dissented against the established faiths, which established faiths by the mid-nineteenth century were rare, if non-existent.

However, the Catholic Church was perceived as a completely different entity. The Protestants of the mid-nineteenth century and into the twentieth century saw the Protestant faith and heritage as American. Roman Catholicism was a foreign power, organized and ruled by a foreign despot who controlled the thinking, policies and creation.
of many nations in Europe. With the growing numbers of Catholics the fear was that the pope, with his control over the Catholic population, would establish Catholicism here in the United States to the destruction of religious liberty as well as other freedoms.

The American Protestants perceived themselves to be free thinkers. They were independent individuals, free from much of the shackles and accouterments of Rome. They were not controlled by religion but freely participated as individuals with each conscience being respected. Therefore, the Bible would be taught because it was not an ‘organized faith’. The criticism of supporting private schools or allowing Roman Catholicism in the public schools was seen as supporting an ‘established faith’. In fact the public schools, many times, were the occasion of anti-Catholic doctrine which was taught in the classrooms to which Catholic students were subjected.\textsuperscript{64}

The second event in this century which stirred anti-Catholic feeling was a papal encyclical by Gregory XVI, entitled \textit{Mirari Vos}. In the encyclical the pope condemned the separation of Church and State. The Protestant reaction to the encyclical at first was just critical of the pope. However, when the school problem occurred, this encyclical was used as a catalyst to further the public concept of separation of Church and State in America.\textsuperscript{65}

The pope’s encyclical seemed to confirm the worst suspicions of American Protestants—that Catholicism threatened American liberty; not least by uniting church and state. Yet, in their initial replies to the pope, American Protestant clergymen typically hesitated to endorse a

\textsuperscript{64} Ibid., 201-29.

\textsuperscript{65} Ibid., 229ff.
separation of these institutions, preferring, instead, merely to condemn the pope’s advocacy of a union. After the New York school controversies, however, Protestants responded to Gregory’s words by demanding separation, which they declared to be an American principle. For example, in 1843 clergymen of various denominations organized the American Protestant Association to “awaken” Americans to the “assaults of Romanism,” and, in this spirit, they embraced the separation that the pope rejected.\footnote{Ibid., 195.}

The second attitude for cause of separation of Church and State was authored also by secular liberalism which viewed all religion and clergy of whatever denomination as a danger to the liberty of the American citizen. The expression of liberalism in America did not go to the radical extent against religions as did European liberalism. The liberalism in America tended to exploit the already individualized Protestant denominations and to further fragment them from their creeds and organizational structures.

American Protestants had departed from established churches, including those of Rome and Canterbury, but now increasing numbers of American Protestants questioned the authority of entirely disestablished Protestant churches. Most evangelicals belonged to churches that retained creeds, clergies, and structures of church discipline. Nonetheless, ever more Protestants felt their individual liberty to require a freedom not only from government but also from their own purely voluntary religious societies.\footnote{Ibid., 195.}

In the mid nineteenth century the concept of separation of Church and State became more popular. Protestant religions were still very much part of American society

\footnote{Ibid., 231-2.}
and government but it was more in terms of the individual Protestants and less in terms of organized faiths. The end of the nineteenth century also brought about more specialization in people’s work and Americans began to compartmentalize more than before. Hamburger sees these separations combined with separation of Church and State to begin to have with them a certain cost.

Especially when allied with other separations in American society, the separation of church and state could have a moral cost. This became particularly clear when the principle of separation was raised as a barrier to the moral claims sometimes made against property owners. Although Americans only occasionally employed separation in this manner, their efforts suggest much about the role of this idea in allowing Americans to fend off moral demands with which they did not wish to comply. For example, on the ground of separation, some Americans opposed taxes for the support of the poor....Although separation rarely became an issue in the debates over slavery, the possible implications of the principle were not entirely ignored. It has already been seen that many Americans, especially in the South, rejected clerical intervention in the politics of slavery but did not typically go so far as to demand a separation of church and state. Similarly, when abolitionists demanded that churches take a strong stand against slavery, some clergymen, fearful that their denominations would be sundered over this issue, argued that the Christian church lacked the authority or competency to condemn slavery. According to these Christians, slavery (unlike, apparently, temperance and education) was a matter belonging exclusively to civil governments.68

In the late 19th century as the Protestant Liberal thought advocated the cause of separation, there was also the rise of anti-Christian secularists who were opposed to all creeds and faiths. These secularists or liberals believed the First Amendment concerning

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68Ibid., 265.
the non-establishment of a religion was not sufficient and felt the need of a broader amendment regarding separation of Church and State. The liberals wished to enact into the constitution an amendment which would have the effect of complete separation of Church and State. They hoped to keep clergy and religious out of politics and reduce to a minimum their influence on government.

The liberal cause for an amendment suffered political failure for a number of reasons. However, one large issue that destroyed the National Liberal League, the major liberal organization of the time, was the obscenity issue. The Liberal League urged free expression of language and print in the public areas which in the late 19th century was repugnant to most Americans. This appeared to the citizenry as immoral and soft on values that were important for a strong righteous society. Following the political collapse of the movement for a constitutional amendment, the liberals had to seek other avenues of influence as the 19th century was ending.69

The Liberals could best achieve “the complete secularization of the State” by attempting to persuade all parties to support separation and by avoiding identification with any particular political organization or rubric, especially their own. ‘For the present, and for a good while to come, wise and wide discussion of its questions is needed in order to form the public opinion which in any event will be necessary worthily to sustain a political party and which may, when strong enough to do that worthily, accomplish the desired reforms without a distinctive political organization.’70

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69 Ibid., 328ff.

As the 20th century began the separation of Church and State had popular acceptance with the American people. This century would have other diverse groups push for this cause, namely the Masons, the Jews, Ku Klux Klan and the Seventh Day Adventists. These vocal religions and brotherhoods banded with the secular liberals and Protestant liberals to refashion the opinion of America.

Thus, for quite diverse reasons, a wide range of Americans came to portray separation as a freedom that had been guaranteed in American constitutions since the eighteenth century. Some of these Americans were expansively anti-Christian; others were narrowly anti-Catholic. Some, without any animus, simply wanted to adopt what they had been told was the American principle of religious liberty. These variously motivated Americans included Liberals, denominational writers, professional historians, and increasingly, advocates for religious organizations. As will be seen below the Americans who interpreted their constitutions to guarantee separation also included nativists.71

In 1947 the U. S. Supreme Court ruled that the First Amendment to the Constitution did uphold separation of Church and State. Justice Hugo Black, a former member of the Ku Klux Klan and strong advocate of separation of Church and State wrote the following majority opinion which gave a legal direction to the First and Eleventh Amendments in the case of Emerson v. Board of Education.

The “establishment of religion” clause of the First Amendment means at least this: Neither a state nor the Federal Government can set up a church. Neither can pass laws which aid one religion, aid all religions, or prefer one religion over another. Neither can force nor influence a person to go to or to remain away from church against his will or force him to profess a belief or disbelief in any

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71Ibid., 359.
religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, for church attendance or non-attendance. No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. Neither a state nor the Federal Government can openly or secretly, participate in the affairs of any religious organization or groups and vice versa. In other words of Jefferson, the clause against establishment of religion by law was intended to erect “a wall of separation between church and State.” Reynolds v. United States.72

This decision by the Supreme Court set the standard of complete separation of Church and State in America. Justice Black, known for his opposition to the Catholic Church, had the opportunity to rule in favor of the Church in the issue of busing students using the interpretation of the First and Eleventh Amendments in a separatist way. Essentially the students could be bused because of the right to be educated, but no funds could be given to the school because the majority opinion which he wrote stated this was a violation of the U. S. Constitution. Soon afterward the Protestant Churches of America would be stunned by a further application of this ruling in McCollum v. Board of Education. Atheist Vasti McCollum objected to a released time program. Justice Black was now able to use the principles set down in the Emerson case of separation of Church and State to remove released time programs from the public schools.73

With the above Supreme Court decision the metaphor of Thomas Jefferson’s wall became enshrined in 20th century law which clearly establishes the separation of Church

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73Ibid., 474.
and State. This principle seems to have been one which evolved through time, formed and fashioned by many movements and interests, not all of them good or noble, but in the end the American people seemed to have embraced the principle of separation of Church and State as their right.

In reviewing this short sketch of America's historical journey in regard to Church and State we see this country was predominantly in favor of some relationship of religion and state if not a State established religion for a particular state. The Catholic Church enters into the debate late in the discussion in terms of public support for her schools and, therefore, because of this and anti-Catholic sentiment, the question of separation of Church and State moves more to the side of separation. As was seen above, America now accepts a clear separation of Church and State, although it seems to be in flux depending on the time of history and the area of social life being considered. The modern Church is in an environment of a State which is neither supportive nor antagonistic to her message. Modern America is open to the spiritual values that religion can bring to society, but clearly rejects the presence of creed and beliefs in her government structures such as we have seen in the public schools. With the First Amendment, religion is protected for the citizen and thus the prison system has always been an area in which religion has been made available to the inmates because of their confinement to an institution. There is now the opportunity for the Church to expand its advocacy role in the prison system. However, it must observe the rules which the historical process of this nation has fashioned. The rules will be part of our last section of this chapter.

Section III: Conclusion
As stated above, the wall of separation between Church and State is perceived in modern times to be a healthy, life giving state of affairs. The dependency of one on the other is seen as inappropriate and possibly dangerous. The issue of this section of the chapter is where does the Church exercise its advocacy role in light of the modern relationship between Church and State in America. Before we enter this area it is important to quickly summarize what has been covered in this chapter and understand the context in which Church and State relations are framed by the Church. First is that the State as well as the Church rule by Divine Authority. They are independent of each other and are to pursue their own ends as intended by the Creator. Second, the Church has no authority over government in its duty to protect the temporal welfare of society. The State likewise is not to support or establish any particular faith or religion or to give any expression of faith preference or privileges. Three, the central concern for the State and Church are the concern for the welfare, the dignity and rights of the human being in all its dimensions, temporal and spiritual. Four, the areas in which the relations of Church and State begin to connect with each other is the respect of this dignity, each in its own way, the Church (religion) to attend to the spiritual aspects of human life and the State (government) to the temporal aspects.

Standing thus in the middle, so to speak (where Leo XIII put him), the citizen looks two ways. As Christian, he looks, as it were, behind him to the Church as the “general teacher (informator) of faith and morals,” to use the phrase of John of Paris; as citizen, he looks before him to the state, to the whole order of human life in its temporal aspects. The action of the Church on him terminates at conscience, forming it to a sense of its Christian duties in all their range and implications for temporal life. The Christian then as
citizen, in the full panoply of his democratic rights, prolongs, as it were, this action of the Church into the temporal order, in all the matters in which Christian doctrine and law has implications for the life and law and government of society. First of all, it is through the freedom of the citizen (in the modern sense) that the freedom of the Church (in the medieval sense) is effectively assured—her right to exercise her spiritual sovereignty over her subjects and to reach those elements of human affairs which are “quoquo modo sacrum.” Secondly, it is through the freedom of the citizen that the freedom of the city itself is effectively assured—that freedom which consists in the establishment and dynamic maintenance of an order of justice and charity.  

Beyond the common concern for the human person it is important to narrow the relationship between Church and State to a more central theme. The above quote by Father Murray emphasizes the importance of freedom and of justice. It is these two areas of human life that can be used by the Church’s advocacy role in the prison system. Father Murray sees that the work of the Church is to use its prophetic voice to instruct the ‘Christian-citizen’ in his/her duties and values, which although spiritual in origin (the Church’s proper domain), do impact on temporal affairs, what is referred to as the indirect power of the Church. This prophetic teaching office of the Church has always had the task of the formation of conscience. Prisons are concerned with the enactment of justice and restriction of freedom of inmates to protect the safety and freedom of its citizens. These prime values of the human person are central to the justice system and prisons of this country. Thus, freedom and justice would be ‘centers” where both Church and State have interests and commonality without surrendering or overstepping the

borders of either realm. These two centers are where the Church can enter the prisons and bring its full tradition and wisdom to bear for the change of lives which have been touched by crime.

Therefore, with this brief history of Church and State complete, we will look at the central values of freedom and justice in the next chapter. Since this dissertation deals with the prison system, we will examine how the church can act as an advocate when the rights of justice and freedom are transgressed. When wrong doing damages the dignity of the other, temporal order is damaged and the freedom and the liberties of one’s fellow citizens are trespassed upon.
CHAPTER FOUR

ADVOCACY AND THE PRISON INMATE

In the previous chapter we saw that separation of Church and State was for all intents and purposes the historical reality which this country prefers and sees as workable in this age. It allows each institution a certain freedom to pursue its own mission and destiny in human affairs. However, there are areas in human existence where the two powers overlap and it is in these areas that the Church is not only able to exercise her prophetic voice but has an obligation to do so. In the present state of affairs we see that the American government has a respect for human existence and the dignity of its individual citizens from its charter, the United States Constitution. The Church, as we have seen from the previous chapters in this dissertation (see chapters 1 and 2), states that the human being has inestimable value, stemming from the fact that we are made in the image and likeness of the Creator. This respect for the dignity of the human person is the gate through which the two powers, Church and State, can interact.

As we have also seen from the previous chapter, the aspects of justice and freedom are the central pivots bearing on the concerns of this paper. Justice in life is the key for life to be human and society to be orderly. When dealing with the advocacy of the Church in the modern prison system the question of justice becomes paramount. Prison systems exist because justice has been violated by a person who possessed freedom to do the acts of justice or not. English Common Law, the tradition of our legal system, presumes a person is free in his/her actions and stands responsible for them. These statements are not foreign to the Catholic Church who teaches, as doctrine, that human
freedom is authored by the Creator. Therefore, this chapter will concern itself with the questions of violations of justice, by free responsible persons, with the question of punishment of the offender, with questions of correction, restitution and forgiveness. It is in these questions that I believe the Church can be the wise advocate sharing her rich tradition with the present day prison system. This chapter will concern itself with dealing with the offender. It is the offender and his/her criminal acts which is the reason for the prison system in the first place. In the next chapter we will review other areas of concern of the Church with the prison system.

Josef Pieper in his book, The Four Cardinal Virtues, gives a clear, succinct idea of justice that can well be used in this chapter. Justice is giving the other what is his/her due.

All that is true, yet whenever ‘justice’ is analyzed, so vast a multitude of meanings come to mind that it is quite impossible to master them. Nevertheless there is a notion of the utmost simplicity to which that bewildering variety can be reduced. Indeed, Plato already mentions it as if it were handed down by long tradition. It is the notion that each man is to be given what is his due.

All just order in the world is based on this: that man give man what is his due. On the other hand, everything unjust implies that what belongs to a man is withheld or taken away from him—and, once more, not by misfortune, failure of crops, fire or earthquake, but by man.

\[1\] Josef Pieper, The Four Cardinal Virtues (Notre Dame, Indiana: University of Notre Dame Press, 1966), P. 44., Pieper here refers to Plato’s Republic 331, quoting the poet Simonides a century earlier. Perhaps the source was in Homer’s Odyssey (14, 84).

\[2\] Ibid., p. 43-4.
The question of what one is due brings us to the important questions of rights and where do they come from. Justice is dependent on the existence of rights of another, which I am obliged to respect.

‘If the act of justice is to give to each man his due, then the act of justice is preceded by the act whereby something becomes his due.’" This text expresses with supreme simplicity a circumstance that is utterly fundamental. Justice is something that comes second: right comes before justice. If something is due to a man as his own, the fact of its being due to him has not come into existence through justice. “That act, by virtue of which something comes for the first time to be due to a man as his, cannot be an act of justice.”

The next question that is brought forward is where does one get ‘rights’. What is the source of his/her claim on life, actions and possessions? The claim would seem to emanate from one of three sources. The first is that I, myself, am the source of my rights. It would stand to reason that if I work to produce something it is mine. It is for me the right to demand compensation if indeed I do choose to do so, when I give it to another. This poses a number of problems. Cows produce milk, chickens produce eggs. Does the farmer owe the cow or the chicken recompense for their work? The issue becomes more difficult if there is demanded bacon or ham as well. It would seem reasonable therefore to assume that I have rights not just because I can produce but because I am a ‘spiritual’ being, a person. I am a person, a subject. It is something which we are not willing to say concerning the plants that we cultivate or the animals we domesticate. Rather we say that

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3Ibid., p. 45, Pieper cites Augustine’s City of God, 2,28.
4Ibid., Pieper cites again the City of God, 2,28.
far from owing anything to them, they are my possession and are part of my person and if they would be taken from me, something would be due to me.

For stones, plants, and animals have also been created, yet we cannot say that they have their due in the strict sense of the word. For “being due” means something like belonging to or being the property of someone. A non spiritual being, however cannot properly have anything belonging to it; on the contrary it, itself, belongs to someone else, for instance, to man.

Therefore, it would seem that a being who possesses special qualities which have been traditionally referred to as “spiritual” qualities are those important qualities which allow me to be a person having rights. Perhaps the confusion of rights in the modern world is simply that we do not wish to recognize “spiritual” or transcendent qualities in a being as important. Does it include any life form, or maybe even just animate existent things that somehow have rights bestowed upon them or they possess them in themselves? The traditional thought that beings, which do not have the spiritual or transcendent qualities of reason and will, are not possessed of personhood and rights indeed seems to be reasonable.

The next question that is posed to the position that I am the source of my own rights is that I did not earn my life yet it is mine. The very basic right of life is not because of something I have done: it is freely given to me as mine. Therefore, I am not the source of my most basic right to my life, which is the center and root of all the other rights. Since I am then not the basis of my rights, these are then found in another.

\[\text{i}^{\text{bid.}, 47.}, \text{Pieper cites Thomas Aquinas, Summa Contra Gentes 2,93.}\]

\[\text{i}^{\text{bid.}}\]
The second position on the basis of rights would find their source in society which gives rights by governmental power. The specter of government being the source of human rights is extremely problematic considering the brutality of many of the regimes of the 20th century. Even in a democracy as benign as the United States, the rights of all individuals were not officially recognized by the government until amendments were made to its charter. To say that women and African-Americans possessed no rights until the amendment of the Constitution allows this document to be the origin of individual rights. It may be one thing to say they were not persons in a legal sense, but to say that a new ontological basis had been established within themselves by the amendment of a document offends the dignity of us all. The Constitution did not grant the rights, but only protected them or allowed them to finally be expressed. The rights of Americans existed before the constitution.

The third possible source of human rights would be the transcendent. The possibility of the transcendent has always been present in western culture as the basis of right. It is from creation that we have rights.

‘It is through creation that the created being first comes to have his right.’ By virtue of creation first arises the possibility of saying: ‘Something is my due.’ This may sound rather obvious. But on the basis of it Thomas draws this surprising but compelling conclusion: ‘Therefore, creation itself is not an act of justice; creation is not anyone’s due.’ This means that in the relationship of God to man, there cannot be justice in the strict sense of reddere suum cuique: God owes man nothing. “And although God

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3Ibid., 46, Pieper cites Augustine’s City of God 2, 28.

8Ibid., Pieper cites Augustine’s City of God 2, 28.
in this way pays each thing its due, yet He Himself is not the debtor."¹⁹ This is surely a new theme. And it is something we shall have to discuss.¹⁰

It is interesting to note that Josef Pieper in his chapter on rights in his book, The Four Cardinal Virtues, uses the word inalienable.¹¹ This adjective struck me not only because it is a seldom used word in modern discourse, but it is reminiscent of the expression used by Thomas Jefferson in expressing the importance of the rights given to us by the Creator. The Declaration of Independence, preceding the Constitution of the United States, and referring itself to the Crown (which most at that time would consider the legitimate ruling authority with its own right to govern) states that rights are inherent in the creature by the Creator. They (signers acting as representatives of their constituents) perceived that basic individual rights are inherent in the person; and acts of government which threaten them are tyrannical and the right to rule is made forfeit. These rights are seen to stem from a Creator and there is bestowed by this Creator certain inalienable rights. This statement is the raison d’être of this nation. Upon this simple statement the country finds its justification. The foundation of human rights on the Creator always posits the possibility of an authority to which the government needs to be open especially in the question of rights and the dispensation of justice. The placing of our rights upon the Creator allows a philosophy of the dignity and worth of the citizen and will be important in dealing with those who are incarcerated and in the State’s

¹⁰Ibid., Pieper cites Thomas Aquinas’ Summa Theologia I, 21, 1-3.

¹¹Ibid., “Justice” chapter I, 43ff.
charge. More will be said about the possibility of the transcendent later in this chapter.

The following quote from Josef Pieper gives a good summation of human rights and their importance in regard to justice.

Man, however, is a *person*—a spiritual being, a whole unto himself, a being that exists for itself and of itself, that wills its own proper perfection. Therefore, and for that *very reason*, something is due to man in the fullest sense, for that reason he does inalienably have a suum, a ‘right’ which he can plead against everyone else, a right which imposes upon every one of his partners the obligation at least not to violate it. Indeed, man’s personality, ‘the constitution of his spiritual being by virtue of which he is master of his own actions,’ even requires (requirit), says Thomas,\(^\text{12}\) that Divine Providence guide the personality ‘for his own sake.’ Moreover, he takes literally that marvelous expression from the Book of Wisdom: even God Himself disposes of us ‘with great reverence’ (cum magna reverentia).\(^\text{13}\) In the same chapter of the Summa Contra Gentiles in which this statement occurs the concept of the personality is set forth in all its elements: its freedom, imperishability, and responsibility for the whole of the world. If, on the contrary, man’s personality is not acknowledged to be something wholly and entirely real, then right and justice cannot possibly be established.\(^\text{14}\)

With the establishment of right, the next question is how do I relate to rights, especially the rights of others. This goes to the heart of justice. Justice is that virtue which is focused on the other person’s right. There is an obligation, a due, or debitum that I have in regard to the rights of another. Respecting that right is my duty and when I

\(^{12}\)Ibid., 50, Pieper cites Thomas, *Summa Contra Gentiles* 3,112.

\(^{13}\)Ibid., 50, Thomas is again cited, *Summa Contra Gentiles* 3,112.

\(^{14}\)Ibid.
do I act justly. If I do not honor the right of the other, I act unjustly. Josef Pieper sees that the external act in regard to the other is extremely important if justice is to be done.

This peculiarity of justice, however, that it should first and foremost be realized in an external act (arising, as it does, from my discharging my obligations—whether I do so readily or not, whether I am in need or not, whether my creditor is rich or poor; Kant says: The other person may be in need or not, he may be in distress or not; but if it is a question of his right, then I am obliged to satisfy it)—this distinguishing mark of justice bears the closest possible relation to the fact that it has, essentially, to do with the ‘other person.’” The other person is not affected by my subjective disposition, by what I intend, think, feel, or will, but only by what I do. Only by an external act will the other receive what is his, his due. “Men are ordained to one another by outward acts, per exteriores actus, whereby men live in communion with one another.” That is a sentence from the Summa Theologica. It is also the reason why, so Thomas says, in the realm of justice good and evil are judged purely on the basis of the deed itself, regardless of the inner disposition of the doer; the point is not how the deed accords with the doer, but rather how it affects ‘the other person.’

Justice, at the heart of the matter, it would seem, is fairly straightforward and simple. When we respect the rights of others we are just, when we do not we are unjust. However, before we leave the question of justice a few remarks need to be made. Pieper notes that the perpetrator of injustice suffers and does damage to his interior person.

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15Ibid., 60-1, citing I. Kant, Lecture on Ethics, 245.
16Ibid., Pieper cites the Summa Theologica, I, II,100,2.
17Ibid., Pieper again cites the Summa Theologica, I, II,60,2.
18Ibid.
Something very destructive occurs in the life of the one who disrespects and denies the right of the other.

Yet the question persists: On what basis does a man have his due in such a way that it is his inalienable possession? We have nowadays become so accustomed to thinking in the categories of despotism that the great word ‘inalienable’ almost makes us smile. This or that ‘inalienably’ belongs to me! What can such a claim really mean? There is another, more forceful, way of stating the case. That something belongs to a man inalienably means this: the man who does not give a person what belongs to him, withholds it or deprives him of it, is really doing harm to himself; he is the one who actually loses something—indeed, in the most extreme case, he even destroys himself. At all events, something incomparably worse befalls him than happens to the one who suffers an injustice: that is how inviolable the right is! That is how strongly the inalienability of the right asserts itself!\(^\text{19}\)

At the same time Pieper notes that despite the interior damage done to the perpetrator, interiority of the actor is not central to the act of justice. A person who is not just may act justly to another person and vice versa, one who is just may by reason of accident or ignorance bring injustice into the life of a neighbor. The central question as seen above is that a right has been transgressed whether intentionally or not, a debt has been incurred and there needs to be some type of correction of the wrong act.

If it is possible to designate the ‘just thing’ apart from the inner condition of the one who performs it, is it perhaps possible, too, to think that a person can do the ‘just thing’ without being just? In the realm of justice there is actually something approaching a separation of deed and intention. In his treatise on law Thomas says: ‘The mode of doing acts of justice, which falls under the precept, is that they be done in accordance with right; but not that they be done

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\(^{19}\)Ibid., 47-8.
from the habit of justice”- 20 a formula that is very sober and realistic, it is true, but pretty pointed as well. It states that there is no need for a man to be just in order that he may do “the just thing.” Whence it also follows that a person can do something unjust without being unjust. And this is possible because there is something “objectively” unjust, whereas it is meaningless to speak of something “objectively” cowardly or patient. 21

The above two instances concerning the interaction of the actor or perpetrator with the act done, will be discussed later when we look at the questions of sin, guilt, restitution and conversion of the person who is involved in wrong doing.

Finally, justice is involved with not only the person, but is also involved with society. The relation of the person and the society also involves the question of rights and what belongs to society and what is the right of the individual. The State is obligated to maintain a society in which individual justice and equality are maintained and the proper order and common good of the society are achieved. On our part the State is to respect the rights and freedom of its citizens. When it fails to do so, it becomes tyrannical and over a period of time a regime change is in order if the tyranny is prolonged and is involved in serious violations of human rights. The opposite is also true. Society has the right to protect itself, to develop its structure, and protect the members of society. Thus, the state can tax, draft for service, or use the possessions of its citizens depending on the need. The cause of its action, of course, is to be legitimate. Therefore, one can deprive the state of its rights and one can do so seriously by an

20Ibid., 62, Pieper cites the Summa Theologica, I, II, 100,9, ad 1.

21Ibid.
individual act. It is a serious act of injustice. Along these lines, Pieper makes an interesting observation which relates all acts of the human being as societal.

This means that the true character of a criminal wrong is not so much the loss of some possession, the injury to health or life, but, rather, the implicit threat to the entire order of community life, affecting every member. Once this is recognized by everyone, justice can be said to prevail in that state.\textsuperscript{22}

Inherent in every act of serious injustice is a fear in society. There is now present in society less trust and less willingness to be open to the stranger. As injustice increases the common glue of society, which is trust, begins to unravel. Therefore there is no such thing as simply damaging the rights of just the other person.

As this dissertation deals with the question of the prison system, the violation of rights and justice are a necessary consideration of advocacy by the Church. The United States, like most nations, has developed a fairly comprehensive list of what composes violations as well as punishment for such violations, either under state jurisdiction or federal. The Academic American Encyclopedia gives a clear and concise view of the question of crime from the perspective of the state or civil society. A crime is a wrong doing which society either perceives to be wrong such as theft or murder, or it is prohibited for the stability or the safeguarding of the common good, e.g. drug trafficking.

Crime—In the broadest legal sense, a crime in most countries is an act committed in violation of a law forbidding it and for which a court may impose a variety of

\textsuperscript{22}Ibid., 71.
punishments, including fine, imprisonment, death, or removal from office.\textsuperscript{23}

The crimes which are considered serious in nature are referred to as felonies. Those which are a slighter offense are misdemeanors. Felonies warrant prison time for multiple years up to and including life sentences and the death penalty. Misdemeanors usually involve less than a year of imprisonment and/or fines.

In modern society crimes which once involved a religious interest are now a thing of the past. In the early foundation of this country blasphemy and violation of the Sabbath (Blue Laws) would be examples of actions which are no longer criminal. Patrick McCormick in his book, \textit{Sin As Addiction}, states the past relationship.

These twin concepts of religious alienation and civil transgression either came to be seen as roughly equivalent or were twin concepts employed as interchangeable analogies of one another. Civil government, which claimed religious and moral authority as well as legal jurisdiction over its subjects, argued that any transgressions of the laws of the state were likewise to be considered as immoral and irreligious acts.\textsuperscript{24} At the same time religious authority employed sanctions against serious sins which resulted in rendering the sinner an “out law” in the civil dimension, effectively denying the individual access to the protection or privileges of citizenry. In short, excommunication by the Church rendered a person a criminal, which was the specific intent and power of that sanction.\textsuperscript{25}

\textsuperscript{23}Gennaro F. Vito, “Crime,” \textit{Academic American Encyclopedia} (Danbury, CT, Grolier Incorporated, 1995).


\textsuperscript{25}Ibid.
As the separation of Church and State is maintained in society, crimes against religion or God are no longer the state’s concern as they once were in the past. Victimless crimes are also usually overlooked, e.g. usage of marijuana, public drunkenness. The only victim is the perpetrator him/herself. The main focus of crime in America tends to be on violations against a right of my neighbor. What a crime is, is basically determined by the state which inherits a legal tradition modified periodically by the people of society, especially if the government is democratic in form.

Running parallel to this is the concept of sin or moral wrongdoing within the confines of the religions in society. In the West it would be the Christian tradition and for the purposes of this paper the Catholic Church.

The United States of America comes out of the western culture highly impacted by the Judeo-Christian tradition. Therefore, there is a similarity between the two, especially in regard to the condemnation of violent acts such as murder, theft and rape. It is in these areas of similarity that the Church is able to bring to bear fuller insights into criminality which society may not be aware of. It is from its rich reflection on human sinfulness that the Church may, as an advocate, shed light on the criminal and his/her inner person.

The work of Josef Pieper, *The Concept of Sin*[^26], is an excellent work we can use to unfold the Catholic Church’s understanding of sin. Also, Patrick McCormick’s *Sin As Addiction*, (previously footnoted) will be referred to, as well. In chapter two of *The Concept of Sin*, Pieper discusses in detail the word for sin found in the New Testament.

‘hamartia,’” or missing the mark. The term has both a secular use and a religious use. ‘Missing the mark’ could be used in the sense of archery or the like. Because of this its religious usage, as sin, could be very shallow, as not possessing a skill or not embracing the procedures of the task or ritual. Because of this danger Pieper reminds us that when the phrase or word, ‘hamartia’ is used in regard to sin or a sinful act the moral segment or the core of our being is involved. Thus we are not attaining our goal as human beings and the completion of our humanity is frustrated by the ‘miss’. In this chapter Pieper gives us a five point analysis in the examination of the understanding of sin.

The first point he makes is that our word sin is inadequate to understand or to appreciate what it is that enters into human life. Thus, there are other words which give other connotations, ‘twisted,’ ‘rebel,’ or, as Pieper notes, Martin Buber uses the word ‘highwayman’. However, in this first section Pieper states that although the word has many nuances, sin is basically a human act. It is not a defect or something that one receives but it is something that is done by a human being who exercises his humanity, which causes him to frustrate the proper direction that his life is to have, and this disorders the human person in a moral sense and therefore in a serious part of one’s life.

The second point is that not only is it a disturbance in our lives that we do, but it is a transgression of a behavioral norm which is not unrelated to the goal or ‘mark’ we are to arrive at or hit so to speak, in order that we remain human, or grow, to continue to flower in our humanity. Thus, the norm that I am to follow will allow order or will create order in my life. The norm is directional to the goal to which my nature is oriented.
The third point is that though we do the act, we do not set what our final goal is as a human being. I may choose goals in what I will do for survival, or whom I will marry, but the final goal for all humans has been previously set which speaks to the core of my being and draws me forward to completion.

The fourth point continues the explanation of the goal. The goal of human life is inbuilt and includes the whole person. This ‘missing the mark’ or ‘false step’ in this area makes us guilty because it is a moral failing, not a technical, scholastic, or artistic misstep. The disruption disturbs or corrupts the inner or essential point of our selves and allows a moral defect, moral evil to enter into our existence.

The fifth point is that the act is done in our freedom by our own power. If it is not done by us in our freedom there is neither guilt nor sin. But if it is, then we are the one responsible for the deed and it effects us and we are accountable for it.\textsuperscript{27}

The sinful act is not a disordered act on the surface area of life, e.g. as administrative order, but is an act that is contrary to nature. This is not in terms of the unnatural sexual sins that are stated in codes of civil laws, but against the basic direction of our lives. Pieper gives a good insight to what nature is in the following quote.

\begin{quote}
At this point we cannot fail to mention a crucial insight, one so fundamental that it serves as the foundation for all traditional teaching about the good life. Prior to the rise of modernity everyone shared the common conviction that the first and most decisive standard for determining norms of conduct in the whole realm of human action must be nature: what man and things are ‘by nature’ is what determines norms for good and evil. Moreover, the phrase ‘by nature’ basically meant: by virtue of having been
\end{quote}

\textsuperscript{27}Ibid., 29-30.
created, by virtue of one’s being a creature. In other words, man’s ‘nature’ can virtually be identified with his creaturely status: his being a creature—his coming into the world without his consent—defines his innermost essence. Everything, therefore, that man can do as a self-aware, consciously deciding essence is based on, and necessarily already presupposed by, what he is by nature. And here ‘nature’ means not just the earliest and first genetic endowment (nature in the sense of ‘by birth’) but also the permanent norm. ²⁸

Therefore there is from creation an imprint in the very depth of ourselves of how life is to unfold. The intellectual and volitional part of humanity is to choose actions which will not violate the norms and direction within us from the beginning but allow us to grow and to realize our humanity as best we can.

Human knowledge is thus true only when it is founded on what we know naturally [naturhaft]. Above all, those activities of man that proceed from free decision and choice are good only when they put into action what our wills have already willed from the beginning by their nature. Of course as the word itself implies, ‘human nature’ refers to what comes with being born [natus, natura], which we can neither choose nor make (nor even corrupt). But ‘nature’ also implies growth, which means that we are born not as static entities but as unfinished products, a ‘rough draft’ [Entwurf] whose realization is demanded by that same nature ‘by virtue of creation.’ ²⁹

With this being said Pieper proceeds with the statement that sin is not choosing evil. Evil is something we do not readily embrace. We do not sin ‘totally’ so to speak. The nature we possess is good and is dynamic. The dynamic of human existence constantly places before human faculties a movement or a push to name and to choose the

²⁸Ibid., 35-6.

²⁹Ibid., 36.
good. Our nature is dynamically inclined by nature to the good that has been intended from our birth.

In the context of these remarks, the original meaning of a long-misunderstood term seems almost of its own accord to regain its relevance, a sense that, ever since Kant’s well-known denigration of desire as inherently antithetical to duty, has taken on an almost sinister or philistine connotation. I am referring of course to the concept of the inclinatio naturalis, the ‘Inclination of nature.’ Needless to say, this term does not refer to the merely accidental, capricious, grasping with to get a hold of something, for which the word ‘appetite’ serves. Presumably the ‘Inclination of nature’ should be understood (and it will be so understood here) not as referring to anything that can be encountered empirically or psychologically. Rather, the inclination of nature is the hidden gravitational pull that is active in each individual regulation of the will. It is the fundamental energy by virtue of which human existence presses toward its intended goal. The good of the natural inclination is the goal given with it by creation, fed from the originating act of creation, which can itself be thought of in no other way than as an absolutely original explosion from which every creaturely dynamic in the world receives its first impulse and from which it is ever after in process.  

Thus, the basis of sin is rooted in a creature that is destined to choose the good. Using the past analogy of the archer and hitting the mark, we are destined to hit the mark, unless we intentionally choose not to. The spiritual faculties of the person are directed to act toward the final destiny, but we miss the mark when we choose what is perceived to be good and allow it to be more important than our destined final good. There is a denial of the light of knowing as it pertains to what is really good for us, and the free choice of choosing the lesser, sacrificing the greater good. The mind becomes darkened by the

30Ibid., 37.
betrayal of itself not to be open to reality in terms of the practical truth of our lives, as one intentionally hinders and frustrates one’s life project of being human. 31

In the Judeo-Christian tradition all sin is a willful action against God. In the modern secular world this is perhaps a difficult concept to grasp. How is it that God is involved in every one of the wrong doings of humanity? If so, is God damaged, hurt or even reached?

The sin against God is tied up with what we do in nature and to ourselves. Pieper makes clear the inherent goodness of both. As stated above humans are destined to choose good not evil.

Sin is turning to creation in such a way as to turn from God. There is a conversion and an aversion in the act. The conversion is the turning to the created good, as if it were the Uncreated Good (God) and destines our life to the creature. This act of choosing the apparent good over God involves an aversion from God for now the person is no longer directed toward the Divine Presence. The aversion from God is ‘incarnated’ in the act of choosing the created good and the two are as two sides of a coin. One act simultaneously brings both about.

Of course this juxtaposition of turning-toward and turning-away is not to be thought of in such a way as if in the concrete sinful deed the sinner commits two separate and independent acts of which the one is a turning away from God, making that act thereby the actual evil of the sin, while the other act, the turning toward a creaturely good, is something that can remain good despite the sin. No, the connection between aversio and conversio is no accidental juxtaposition but an interweaving of both strands into one

31Ibid., 38-9.
guilty action. For in sin even the act of turning-toward is a distorted act, not of course in and of itself (by virtue of its identity as a turning-toward), but rather because this turning-toward is meant to be a deliberate turning away from God.

Pieper goes further into his analysis of sin asking where and how does this action arrive in the human person. The “conversion” to the created good stems from the human’s desire or capacity to obtain something, or enjoy something in a way which interrupts the person’s orientation to God; and the passing good takes the place of the ultimate good which is God. The turning away from or the aversion stems from pride in that I choose to have a created good which will serve me and not God, resulting in the corruption of the created good. Pride is that which is the reason for the inordinance of the act, placing myself or my need before anything or anyone else. The ordering of human life has been inverted. I am now the end of my existence, not the good that was intended by nature. It is a form of idolatry, since the ultimate good of the person is God, at least as seen in Christian tradition. For Pieper the more that pride enters into the act the more serious the guilt and the greater the disorder. Thus the more spiritual I may be, the freer and more illumined I am, thus, the deliberateness to serve myself over anything else becomes more serious with the greater guilt attending it.

In this discussion of the different levels of sinfulness in terms of the intensity of turning away from God, Pieper leads into the classic distinction between mortal and

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32 Ibid., 60. Pieper cites Thomas Aquinas, **Commentary on the Sentences** 22,42, 2,1, and 7.

33 Ibid.
venial sins. Venial sin is a sin that is an imperfect turning from God. These sins are able to be granted forgiveness. Mortal sin is unto death. It is the destruction of my relationship with God and a complete (if that is possible) turning from God or a turning from God so deep that it becomes irreparable. Although it would seem that mortal sin is possible, we don’t know if one is in mortal sin or not. This is a matter between the person and God. We may get an inkling that a serious disturbance has indeed taken place by their behavior. However, whether the person has intentionally placed oneself beyond the pale of God’s providence we don’t know. Human acts are not only a view into the soul, they can also cover or hide the depths of the soul.

This is why we can never know who has and who has not committed a mortal sin. Because human guilt in the full and strict sense takes place only in the most secret and silent cell of the deciding person, in suo eterno, for that reason ‘mortal’ sin, peccatum mortale, is a process hidden from nature. Nor does it matter how public the sin be: even if the sin is a blatantly public violation of lawful order, or a violation against the nature of things or the dignity of man, even if it goes against reason, perhaps even against a divine commandment; - none of this bears on the accessibility of mortal sin to human eyes. It stands in no man’s power to judge whether such violations entail a deliberate turning away from God Himself - sin therefore in the strict, unabbreviated sense. Maybe not even the sinner himself knows!  

The reality of human sinfulness and its universal presence reinforces the teaching of the Catholic Church in regard to original sin. We enter a less than perfect world rendered at times chaotic by the wrong doing of others and ourselves. Our creaturely will in consenting to the good may very well be corrupted and the inclination to good is at
times nullified by an opposite movement, to choose that which will frustrate those
choices which will bring us to the genuine good of our humanity.\textsuperscript{35}

Pieper concludes his analysis of sin by reviewing its effects and consequences in
our lives. The Catholic tradition sees that with the sinful act that is committed there
remains a “macula,” a spot, or a darkening of the soul’s beauty. With forgiveness the
soul is cleansed or restored to its beauty - natural and supernatural. The imaging of
distancing oneself from God is also used, and reconciliation brings us back to Divine
closeness and intimacy. But this requires a turning around and a journey back to God.

Obviously this fact of “being outside” remains as an
ongoing, continuing factum. It could hardly be abolished
simply by ceasing to sin. Nor can distance be overcome by
suppressing the memory of the guilty act, and still less can
it be magically transformed into a new state of being
“Inside” unless the soul first sets out on a journey whose
length is determined by that very distance brought about by
sin.\textsuperscript{36}

Thus, the pain enacted by sin on the soul is the imprisonment or bondage of the
soul. If the sin is unto death then the bondage is eternal with our self holding the keys for
our liberation and refusing to use them. As we will see later, sin demands a reversal of
the sinner, repentance, expiation and reconciliation to bring healing and peace. Before
leaving this area we will have a last look at the tragedy of sin. The tragedy of sin is the
weakening of the soul to resist further onslaughts of evil. The human person is not static,

\textsuperscript{35}Ibid., 77-82.

\textsuperscript{36}Ibid., 85.
but human life is a dynamic movement. The movement of a life now under the shadow will bring the continuance of darkness into one's life.

Sin does more than this, however. Sin not only stains the soul with a lasting blemish as soon as a sin is committed; it not only darkens her light, distances her from God, and sells her into bondage (and also, as theology says, weakens the soul’s receptivity for grace, creating a *diminutio aptitudinis ad gratiam*). 37 38

This quick review of the traditional concepts of sin surfaces important areas in the Church’s tradition for her advocacy to the prisoner and the prison system. Criminal activity is an action to obtain a good, e.g. to obtain money, to obtain sex, to remove a rival or threat. However, as Pieper points out, the “aversion” aspect of sin is the entrance of pride. The criminal services his/her own desires at the expense of others simply because he/she sees his/her own desires as most important. The other is secondary. This pride is manifested in a life, primarily manifested by carelessness and irresponsibility in regard to others. This concern of self, this form of idolatry, is damaging to the person in that it impacts deep areas of the criminal’s life. This insight to the deep evil in human life is important for the correctional community to understand. Also, as we have seen, it does not get better by itself. It needs the work of conversion if the criminal is to have any hope of turning his/her life around.

In chapter six, *Sin as Addiction*, Patrick McCormick reinforces Pieper’s attempts to demonstrate the depths and seriousness of sin. However, he criticizes that view of sin

37 Ibid., 86. Pieper cites Thomas Aquinas, *De Malo* 2.11.

38 Ibid.
which tends to just examine the act; the effects of the act tend not to be treated with the same amount of scrutiny as the act itself. Often in the West the image of sin is “once it is done it is over and done with.” It tends to be viewed as a very individualistic isolated event. Patrick McCormick speaks to this problem.

In the crime model of sin we find ourselves dealing with a perception characterized by a profound, even radical sort of individualism. For the notion of sin as a criminal transgression focuses its primary, if not exhaustive, attention upon the isolated deed of the individual agent. Western analytical thought has been directed to the study of the substance or essence of this deed, paying significantly less attention to that which it has usually considered the separable and secondary realities of consequence or context. This is very clearly revealed by the predominant tendency to act-analysis in the casuistry of much of traditional work in moral theology. Sin is the deed, the act. Even in the Baltimore Catechism we note that the language of personal sin is “actual” sin, focusing upon the commission of the transgression.39

The notion of repeating the same action as part of the sinful act needs to be examined and emphasized. The Church in its pastoral experience in dealing with penitents often witnesses the great difficulty of stopping sinful activity once the sin begins. The repetition begins to be habitual in nature rendering a complete halt to the sinful act quite difficult.

For indeed our experience of sin over any real length of time reveals a depth character or dimension not noticed in the single individual act. Our acquaintance with sin tends to be repetitive. We find ourselves committing and confessing the same sins over and over again. They take on an habitual character which seems to mock our best and most resolute efforts at change or reformation. The single

39Patrick McCormick, C.M. Sin as Addiction, 100.
isolated sin which is washed away in our first confession is not nearly as haunting or daunting as the insidiously repetitive, habitual and increasingly frustrating failures against the gospel which show up again and again as we make an examination of our conscience prior to entering the confessional. Ruefully looking into the mirror of our souls we find that same stupid flaw taunting us with remorse and ridiculing our renewed resolution to overcome this sin.  

The above quote helps us to begin to form a clear picture of our character and the character of sin in the human person. The action as it turns to habit renders the person increasingly unable to return to life in which the sinful behavior is not present. As McCormick states, such habits show areas of our life that an individual act would not reveal.

An individual action represents the conscious and free decision of an agent, the exercise of his/her freedom of choice regarding a particular matter at a certain moment in time. Habits, on the other hand, represent a rather more enduring, persistent, even a deeper sort of decision. For with habits we are dealing with not only a decision about a particular action but about a particular way of being. Habits describe decisions and action not on the level of individual acts but on the level of regular patterns of behavior and traits of character. Indeed the habits of a person reveal and express one’s basic character, one’s identity, on a deeper level. In this way it may be asserted that the habits of a person are more indicative of one’s character and identity than single, isolated actions. Habits are, in a real sense, the wellspring of individual actions, and these same actions are symptoms of the basic character of the person.

40Ibid., 102.

41Ibid., 106.
The movement of sin as seen by McCormick is to move past habit to a more destructive path. The model he uses is the model of a downward spiral that is like a vortex that becomes stronger with each tightening cycle of sin. It is a pathology or sickness. In the later chapters of the book he models this movement as also an obsession and addiction.

In the sense that sin seems to be more than an habitual or regularly occurring problem, in the sense that it seems to be a kind of malignancy which turns more and more toward death, it would seem appropriate to describe sin as pathological. Sin represents a conversion at the core of the person, a conversion that gathers more and more speed as it progresses, a conversion that seems to become more and more irreversible, more set in its ways, a conversion to disintegration and death.  

McCormick’s model of an obsession and/or addiction brings a stronger picture of sin to mind. It is this powerful picture of moral evil the Church needs to bring to bear in its advocacy to prisoners and the correctional system. However, we must be cautious of condemnatory judgements of those caught up in sinful behaviors. It is important to note that the growing sinful activity of the habit into the downward spiral does not always represent an obvious condemnation. As stated before, that is reserved only to the perpetrator of the act and God. Addiction and obsession are not necessarily sinful. Could there be a predisposition to certain activities which are inordinate or harmful to our nature which would lessen the guilt of the act, but which would begin a downward spiral which a person is unaware of until it is so strong he or she feels powerless to combat it? Again the wisdom of the Church can guide prisons to judge the act and not the interior of the

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\[42\]Ibid., 112.
person. We will visit this question of predisposition when we deal with the question of criminality.

Having completed the above review of sin, one may ask what is the tie in with sin and crime. If we look at the criminal in terms of trial, conviction and sentencing of persons to prison, the appreciation of criminal activity and the criminal may tend to be minimized. The action of the courts is limited to the presentation of evidence, a decision of guilt or innocence, and if guilty a sentence is imposed. It is straight forward, ‘cut and dried’. The view of the criminal can then be quite confused with many opinions of what causes a criminal and what kind of therapy needs to be applied. In my years as a prison chaplain for the Commonwealth of Pennsylvania and the United States Federal Prison System, the work of two psychologists continued to be mentioned among the psychologists and treatment personnel, Samuel Yochelson and Stanton E. Samenow. In reviewing of their works, Inside the Criminal Mind by Stanton E. Samenow and the Criminal Personality vol. I, II, III by Samuel Yochelson and Stanton E. Samenow, we will see an approach to the treatment of the criminal rooted in observations of the criminal. In their early experience in dealing with criminals they discovered that they were manipulated badly. The traditional approaches of the psychological treatment were completely ineffective. It was in this experience that they began to clarify what the traits, thinking patterns and behaviors of criminals were as a group. The result of this work was


one that rang true for correctional workers and treatment personnel in our prison system.

As we do a review of some of these traits, thought processes and behaviors of criminals, one begins to see how close they are to what we would perceive to be sinful behaviors.

First, let us review some of basic ideas that society has believed about criminals.

The following from Samenow’s book, *Inside the Criminal Mind*, summarizes some of what he refers to as “myths” about criminals that we hold in our society. When looking at some crimes, their violence is such that we conclude they are sick and need psychological help. It is interesting to note what Samenow says.

Criminals learn to fool the psychiatrists and the courts in order to serve “easy time” in a hospital with the prospect of getting out more quickly than they would from a prison. From other criminals and from their attorneys, even unsophisticated street criminals learn the ploy of insanity. The game is for the criminal to convince others that he is sick so that he can beat the charge. After he is admitted to the hospital, he plays the psychiatric game of mouthing insights and behaving properly so that he can convince the staff that he is recovering and deserves to be released.45

In regard to the speed and frequency of the crimes many would believe that the criminal is under an obsession and a compulsion to commit a crime; and, therefore, is acting with a diminished capacity of the will. Human beings do suffer from compulsions, but Samenow makes the following observation.

Some crimes happen so fast and with such frequency that they appear to be compulsive. A person may steal so often that others are certain that he is the victim of an irresistible impulse and therefore a “kleptomaniac.” But a thorough mental examination would show that he is simply a habitual thief, good at what he does. He can size up a situation at a

glance and then make off with whatever he wants. A habit is not a compulsion. On any occasion, the thief can refrain from stealing if he is in danger of getting caught. And if he decides to give up stealing for a while and lie low, he will succeed in doing so.46

Temporary insanity is a common explanation of a violent and sudden crime. It seems that “out of the blue” a man murders his wife. Again there is temporary or episodic insanity, but also this masks deeper thought processes and behaviors that led up to this sudden criminal act.

A man murders his wife in the heat of an argument. He has not murdered anyone before, and statistical trends would project that he will not murder again. It is true that the date, time, and place of the homicide were not planned. But an examination of this man would show that on several occasions he had shoved her and often wished her dead. In addition, he is a person who frequently had fantasies of evening the score violently whenever he believed that anyone had crossed him. He did not act totally out of character when he murdered his wife. He was not seized by an alien, uncontrollable impulse. In his thinking, there was precedent for such a crime. A person with even more problems might well have resolved them differently.47

Other causes for crime that Samenow sees as erroneous are sociological in nature, the problems of race, environment, family strictness and economics. Samenow notes that crime is not bound by social structures. Suburban youths raised by very stable parents in good a environment do become criminals. Also, it is noted that not all the siblings from a poor minority family are criminals. Perhaps the lack of funds prevents poor families from

46Ibid., 11.

47Ibid.
manipulating the criminal justice system. People are criminal mainly because they choose a criminal life-style.

Sociological explanations for crime, plausible as they may seem, are simplistic. If they were correct, we’d have far more criminals than we do. Criminals come from all kinds of families and neighborhoods. Most poor people are law-abiding, and most kids from broken homes are not delinquents. Children may bear the scars of neglect and deprivation for life, but most do not become criminals. The environment does have an effect, but people perceive and react to similar conditions of life very differently. A family may reside in a neighborhood where gangs roam the streets and where drugs are as easy to come by as cigarettes. The father may have deserted and the mother collect welfare. Yet not all the children in that family are in crime. In suburbia, a family may be close emotionally and well off financially, but that is not enough to keep one of the youngsters from using drugs, stealing, and destroying property.

Criminals claim that they were rejected by parents, neighbors, schools, and employers, but rarely does a criminal say why he was rejected. Even as a young child, he was sneaky and defiant, and the older he grew, the more he lied to his parents, stole and destroyed their property, and threatened them. He made life at home unbearable as he turned even innocuous requests into a battleground. He conned his parents to get what ever he wanted, or else he wore them down through endless argument. It was the criminal who rejected his parents rather than vise versa.48

Over thousands of hours in working with criminals, Yochelson and Samenow developed a framework which reveals the mental processes of the criminal. These are under the lens of responsibility. Thus, there are a range of “thinking errors” of the criminal which contribute to a life style of irresponsibility and self centeredness. Looking at these separately one can see the faults of the average human being. Yet such average

48Ibid.,13.
people, for the most part, are not continually irresponsible or radically self-centered but demonstrate these shortcomings in a few episodes. The criminal exhibits these continually. Some of the characteristics of criminal thought patterns are the following.

A. **Energy**. The criminals display a tremendous amount of energy. This is from childhood on. The energy level for criminals when they were children was such that physical restraints were not uncommon. The thinking is rapid, many times creative and intense. Though they may seem to spend hours doing nothing, their minds are constantly racing, usually in consideration of criminal activity and not in those areas of life which would be activities for a responsible life.\(^49\)

B. **Fear**. Criminals have abnormal apprehensions, worries and concerns. The fear of death and injury is very strong. Also there is a very strong fear of being put down or dismissed. In any areas of argumentation the criminal never admits he/she is wrong but doggedly persists with heated anger.\(^50\)

C. **Zero State**. The components to this error in thinking are the following.

The zero state has three components: the basic view of oneself as a nothing, a self-deception in that it does not conform to the facts; “transparency,” in which the criminal believes that everyone else shares his view that he is worthless; and permanence, in which the criminal believes that his state of being a nothing will last forever and will never change.\(^51\)


\(^50\) Ibid., 258-65.

\(^51\) Ibid., 266.
D. Pride. As to pride it is in the opposite spectrum of zero state. The pride of the criminal is overwhelming and out of touch with reality.

‘Criminal pride’ corresponds to an extremely and inflexibly high evaluation of oneself. It is the idea that one is better that others, even when this is clearly not the case. Criminal pride is manifested in all aspects of the criminal’s life. As a child he shows it at home when he considers himself ‘above’ such chores as taking out the trash. At school, the criminal resents having to do what others ask and being evaluated by others. He believes that he is better than others and therefore need not be accountable to them. At work, the criminal has pretensions that are far out of line with his skills and training. He may be too proud to work at all, believing that jobs are only for ‘suckers’ and ‘slaves.’ Or he may consider himself too good for specific types of employment.52

E. Lying. The criminal is a habitual liar. He /she will lie about anything, anywhere, anytime. It seems a necessary corollary of being constantly involved with criminal activity. This trait about criminals emerged early in Dr. Yochelson’s work with inmates. The criminal knows that it is wrong to lie and does it anyway. The truth is only important for others or when it suits him or her.53

We have only covered a few areas of criminal thought. The extensiveness of Yochelson’s and Samenow’s work is such that they present forty plus thinking errors of criminals which include thinking errors which become automatic to the criminal, e.g. failure to consider consequences in lying to others, pretentiousness, poor decision-making. They also present those thinking errors which move to the execution of a crime.

52Ibid., 274

53Ibid., 348-57.
e.g. extensiveness of criminal thinking, super-optimism, celebration after the crime. Volume I of their study, *A Profile for Change*, gives an excellent description of radical involvement in activities which are without a doubt objectively sinful: activities such as murder, rape, robbery and assault in which the victims are the recipient of violent personal trauma. Actions such as cheating and stealing are also part of their life-style.

The works of Yochelson and Samenow show that the criminal may very well flow into other fields of criminal activity without difficulty, unless he/she would see a particular crime as beneath them, e.g. child molestation.

The close relationship of sinful activity and criminal activity is clear. These are actions which are done out of freedom with full knowledge of the fact that the deed is wrong and damaging. The sinner and the criminal proceed with the act anyway regardless of damage done. From the work of Yochelson and Samenow criminal activity is a pattern of life which was chosen early on in life. It is a life style of irresponsible selfish living.

To say that the psychopath or criminal is self-centered is to state the obvious. But this feature does not stem from some inherent incapacity to put himself in the place of another person and form friendships. He is a master at putting himself in others’ shoes when he plans a crime. But true friendship imposes obligation and putting others first in ways that are incompatible with his sense of his own importance.³⁴

However, there does need to be a “caveat” about identifying criminal activity and sinful activity. As was stated previously in the coverage of sin, one is not able to read the

³⁴Samenow, 181.
human heart. The action does not give a clear comprehensive view of the interior life of
the actor. This distinction between the act and the person is important, especially in view
of some of Yochelson’s thinking errors. The tremendous energy and overwhelming
feeling of fear seem to indicate a pre-existing condition before criminal behavior begins. 55

From a very early age, the criminal-to-be is observed by his parents as ‘different.’ His behavior is extreme, either swinging from being an ‘angel’ at five or six to a ‘hellion’ by ten or alternating between the two right along. His energy never seems to be depleted, and he is chronically restless, irritable, and dissatisfied. He seems never to outgrow the period of the brief attention span. He has to have things his way; he will not take ‘no’ for an answer. 56

Before we leave this review of criminal behavior it is important to understand that the center or driver of these behaviors is self centeredness and irresponsibility lived to an extreme. Yochelson and Samenow see criminal activity as a continuum. The average person may have lapses in responsibility and service but it is not a life style. When self centeredness and irresponsibility begin to take over more and more of a person’s living, criminal behavior becomes more and more evident and recognizable. The extreme cases result in terrible violations of their fellow human beings.

Yockleson and Samenow in the above give an excellent description of criminal behaviors and attitudes. Once again it is important to note that they are describing people who live these as a life style. In the modern prison systems, especially the federal prisons, not every prisoner is what we would speak of as a hard core criminal. The


56Ibid., 128.
concept of a continuum is important to keep in mind. Some prisoners have a greater sense of responsibility and respect for others than do others. Those that do are easier to work with and the chances of their returning to prison are less. This does not mean that there is no criminality at all; it is, however, not as prevalent in the inmate and the inmate has a healthier view of others and the society he/she lives in. The description of criminal behaviors and attitudes is still important to use even in these cases, and the following treatment approach is also applicable.

At this point it is important to note that the causes of criminal behavior, i.e. nature and nurture, are not part of the scope of this dissertation. Suffice it to say that Yockleson and Samenow have done an excellent job in describing the thinking and behaviors of the criminal which then can be used in intervention work and in treatment. Whether or not poverty and/or marginalizing influence the proliferation of crime, many tend to think that it is so. However, this is part of the Church’s advocacy role mentioned in chapter one against dehumanizing conditions of people. It may very well be easier to commit a crime because of disadvantages in life, but a crime has still been committed and its perpetrator is to be held accountable and treated, so that it hopefully does not occur again. Yockleson and Samenow’s treatment deals with the criminal’s decision to act criminally.

The treatment or rehabilitation approach made by Yochelson and Samenow is what they refer to as a phenomenological approach. They presume that the freedom of the criminal is operative and the criminal is indeed able to make choices and be responsible.
We have gone to unusual lengths to elicit all the criminal’s thinking in detail, because we have found that the irresponsible thought of today often turns out to be the irresponsible act, or crime, of tomorrow. It has turned out that criminal thinking not immediately followed by crime is as important as criminal thinking that is immediately implemented. In other words, incipient criminal ideas more frequently than not result in crime. An extreme case of this is a criminal who recurrently thought about counterfeiting. As a child, he stated using tracing paper to copy money; fifteen years later, he made plates and launched a counterfeiting operation. All crimes have had their origins in thinking that has recurred and been initially deterred.57

The mechanism, that these psychologists used was to have the inmates in the group record daily their thinking and to write their thoughts down. This reporting device had the effect of allowing the psychologist to have a rather large data base to use in the treatment of the one reporting his/her thinking. Although at first it was slow, as the group continued to meet more material became available. The psychologists were primarily interested in what the criminal was thinking about now, in the present. The following long quote gives us the basic method by which they would begin to deal with their subject.

Most of our early work was done with men who were in confinement for the greater part of the day. They would come in and say, “Nothing happened.” However, we knew that their minds were extremely busy during the entire period. The objective was to find out what the stream of thinking was. In 1966, we reached a point at which we thought that it might be helpful to have the criminal report every thought that had passed through his mind. We sought to elicit the complete contents of mind without limiting the data. Increasingly, we stuck to the here and now, rather than probed past experiences or searched for causes. We

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57 Yochelson and Samenow, v II, 165.
worked eclectically, focusing on the criminal’s ongoing thinking to discover errors. At the time, we did not label this “phenomenologic reporting”.

As a result of our gradual shift in procedure, new vistas opened in terms of available material. In fact, the phenomenologic approach permitted us to derive much of the material in volume 1. By having the criminal observe his own thinking and report the full range of that thinking, we saw the colliding desires and choices, the contradictions, the thinking errors, and the way of making decisions. Later in our work, we realized that a truly phenomenologic approach had evolved. The information of value was the raw data of his thinking. During the selection process, the criminal was informed that this very detailed reporting was essential for participation and progress in our program. We had a surfeit of experience in which the criminal failed to report what later was to result in criminal activity. If he had something in mind from which he did not want to be deterred, he closed the channel. In addition, anything that he thought would betray weakness, lower our opinion of him, or deflate his won self-image was unlikely to be revealed. We knew that, if change were to take place, the criminal should not be the one to decide what information was important or relevant. Thus, we required that he report the total contents of his mind, so that we could learn how he thinks and apply corrective measures.

The criminal has to be trained in reporting. It is, at the beginning, automatic for him to engage in circumvention, circumlocution (“rounding” or “gaming” in his language), withholding, and in other ways presenting only what furthers his own objectives. Now, he has to habituate the self-discipline of conscientiously supplying the raw data of thought and action. Such a printout reveals, to a knowledgeable authority, the criminal’s characteristic thinking errors and tactics. It gives data to the agent of change and thus provides a field in which to alter thinking patterns. When the raw data of mental experience are brought out, the criminal’s excuses for being the way he is fall by the wayside. With the printout, the criminal can see the cutoff of fear, scheming, lack of endurance, and failure to plan for the long term.58

58Ibid., 166.
Yochelson and Samenow would meet with the criminal a number of times, to give
the subject their expectations of him/her. It was setting the rules and the parameters of
group work which was the favorite setting for treatment. That the criminal observed the
discipline of the group is paramount, and the tempo and subjects discussed are directly
controlled by the psychologists.

The group, consisting of 3-5 members, would review their reports with the
psychologist who directed which member would report and what order the reporting
would follow. This also allows the other group members to see and comment on the
noticeable criminal errors of thinking of the one reporting. These would then be the grist
for the discussion. Why is this thinking wrong? How to avoid it? And other such
questions which would deal with criminal thought patterns. The group would meet
initially five times a week; and as the subjects began to grasp the reporting and questions
for themselves and began to internalize them, the frequency of the meetings decreased. In
the opening session Yochelson asked them to begin to seriously open the gates of their
reserve or, as he would say, open and clear out the channels of the mind to allow a good
flow of their thoughts to be reviewed. Those thoughts which were reviewed were
compared with the list of criminal thinking errors the psychologists had compiled and
would be used to show the person and group members where their criminality manifested
itself. The criminal has then to develop strategies to avoid being preoccupied with the
destructive attitudes in his/her life.\textsuperscript{59} If the criminal is left alone, he/she will continue to

\textsuperscript{59}Ibid., 161-77.
operate out of the old established patterns unless he/she is given tools to interrupt these patterns of thought. The criminal, especially one who has manifested a strong attitude of criminal thought patterns, tends not to get well by oneself. 60

The way of change is that the criminal must now face one’s own demons. The criminal is now to internalize the process of facing the truth about his/her attitude and life-style. Criminal attitudes, like sinfulness, do not magically go away.

One of the limits of the work of Yochelson and Samenow is it deals with those criminals that have come to them seeking some kind of relief, whether it was to begin a change process or just to get out of the misery of their own emotions and confinement. The difficulty in dealing with the rehabilitation of inmates is to get them into an environment where they are challenged to face their criminal attitudes and behaviors. It is my experience that criminals, like most human beings, do not like to look at themselves too deeply or examine attitudes and behaviors too closely. Denial is part of the life of the criminal. Here the life of wrong doing is glossed over, much as Josef Pieper states in his first chapter of The Concept of Sin. He sees society minimizing, excusing or out right denying the presence of sin or its importance or relevancy in human life. This is seen in his criticism of Hartmann and Heidegger.

Not surprisingly, such explicit ignoring of the issue corresponds to a fundamental view of man explicitly espoused in such theories as those encountered in, for example, Nicholai Hartmann and Martin Heidegger. In his Ethics (first edition, 1925), easily the most thoroughgoing and normative statement of the genre to appear under so ambitious a title in the last several decades, Hartmann says,

60Samenow, Inside the Criminal Mind, 154.
for example, that ethics does not know the concept of sin at all: ‘ethics has no room for sin,’ the author baldly asserts.

[6] In Heidegger’s almost simultaneously published opus magnum, the epochal Being and Time, one also can read that ‘philosophical questions essentially know nothing of sin’[7].

Patrick McCormick alludes to the problem of addiction as a possible model of sin. I think that in many ways it can serve as a model for criminal activity. Just as addicts and sinners do not magically get better by themselves, so neither do criminals. Sin, addiction and crime, when left to themselves, tend to get progressively worse not better. The majority of addicts die in addiction with their defense mechanism against treatment intact. Gerald G. May, M.D. gives a succinct description of the mental attitude of the addicted person.

One of the most significant hallmarks of addiction is the exquisite inventiveness that the mind can demonstrate in order to perpetuate addictive behaviors. Here, where the will fights against itself in the morass of mixed motivations and contradictory desires, the creative power of the brain is used unconsciously to subvert each and every attempt to control the addictive behavior. These tricks of the mind include denial, rationalization, displacement, and every other defense mechanism that psychoanalysis has identified, plus a seemingly endless variety of others that even the best psychiatric authorities could not predict.

The treatment facilitator and programs for drug and alcohol treatment do not just depend on life’s painful experience to begin to penetrate the denial mechanism of

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61Pieper, The Concept of Sin, 10.

62Patrick McCormick, 146ff.

addiction. Dr. Vernon E. Johnson also describes the need for intervention in his excellent book, *I'll Quit Tomorrow*, which gives a clear step by step explanation of how intervention takes place. Dr. Johnson states the following.

In summary, then, in chemically dependent people there are two groups of factors progressively working together to draw them out of touch with reality: their defense systems and their distortions of memory. Either one of these alone would seriously impair judgment. The time inevitably comes when it is no longer relevant to ask whether alcoholics will see that they are sick; the plain fact is that they cannot see that they are sick. Yet they are acutely ill with a condition which will inevitably kill them and which will increasingly impair their constitution emotionally, mentally, and spiritually during the final months or years. A major part of the illness is a progressive emotional disorder which must be significantly reduced if they are to return to any kind of productive—not to mention happy—life. They are the victims of a constantly developing mental mismanagement, which if it progresses can result only in suicide. They need the delivery of health care to this acute multiphasic health problem, but they are not receiving it.

It is quite obvious that this condition requires intervention from the outside, and it is equally obvious that only the more knowledgeable persons on the outside will be able to perform this function.  

My experience in working with inmates is that there is the same denial and defense mechanisms at work that there are in addiction and sin. The criminal life brings a disordered, manipulative and, at times, violent orientation to the person’s life. This criminal act syndrome seems to be a life wounded by sin. If it is not personal sin, it clearly is a manifestation of human nature damaged by what the Church would speak of

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as objectively immoral action. The Catholic Church teaches that all humanity suffers from a condition of mental and volitional weakness called “Original Sin”. This condition of weakness leave us vulnerable and without Divine help we will do sinful acts. The Catholic Church describes original sin as an emergence of sin at some point in the history of the human race that mushrooms to every aspect of human living and from which no one is exempt. It is a universal experience of humanity.

After that first sin, the world is virtually inundated by sin. There is Cain’s murder of his brother Abel and the universal corruption which follows in the wake of sin. Likewise, sin frequently manifests itself in the history of Israel, especially as infidelity to the God of the Covenant and as transgression of the Law of Moses. And even after Christ’s atonement, sin raises its head in countless ways among Christians. Scripture and the Church’s Tradition continually recall the presence and universality of sin in man’s history.  

As much as we may be tempted to accuse the incarcerated of personal sin, we in fact do not know this. But the above teaching on original sin does allow us to proceed in dealing with the prison environment and prison as impacted by a weakness in resisting moral evils.

Although it is proper to each individual, original sin does not have the character of personal fault in any of Adam’s descendants. It is a deprivation of original holiness and justice, but human nature has not been totally corrupted: it is wounded in the natural powers proper to it; subject to ignorance, suffering, and the dominion of death; and inclined to sin - an inclination to evil that is called “concupiscence.” Baptism, by imparting the life of Christ’s grace, erases original sin and turns a man back toward God,
but the consequences for nature, weakened and inclined to evil, persist in man and summon him to spiritual battle.\textsuperscript{66}

The weakness of fallen humanity allows an avenue for moral evil to enter into the person whether by reason of personal sin or not. An addict may commit a morally wrong act but because of the presence of an active addiction, which he may not be responsible for, his/her awareness and freedom is seriously impaired. But nevertheless the evil is still done and real chaos and darkness enters into the situation. The criminal life style may possibly be, as we have seen, a pre-existent condition so that we cannot judge the personal sinfulness of the person. Since the action of criminality involves the violation of justice, many times in a very serious way, the criminal behavior and life style need to be addressed by the correctional facility. This is part of the work that prisons are asked to do by the people. Therefore, to leave an inmate alone without attempting to deal with his/her actions would be an irresponsible act on the part of the government. Federal correctional facilities do intervene in inmates lives for example in regard to education. If their literacy is below a certain level, they are mandated to attend the “Adult Basic Education Program”.

It would seem then that the criminal action of the inmate and his/her violation of justice would justify an action of intervention in the life of the criminal. The movement of the correctional facility to lever the inmate into a program which would confront his/her life style would not be a violation of the inmate’s right or freedom morally or civilly. The purpose of the institution, as mandated by society, is to correct those areas in

\textsuperscript{66}Ibid., no, 405, 102.
the inmate which violate the rights of others. What is being done by the institution is to place the offender in an environment by policy of the institution to face those areas where he/she realizes the nature and extent of the offenses and to motivate him/her to begin to deal with these areas in his/her life.

Because of the commission by society to correct offenders, the correctional system has the civil obligation and the moral duty to place the inmates in a condition which will begin the process of intervening in their criminal life style and challenge them to respond responsibly. Of course this is easier said than done, but the correctional system possesses a lot of power in dealing with inmates and has experienced staff who are aware of the “games” played by the incarcerated.

Finally, before leaving this area of intervention, institutions need to spend time and money on their counselors to equip them for confrontation in the areas of criminal behavior. Perhaps contracting drug and alcohol treatment specialists who have long experiences in dealing with addicted people could help train the correctional counselors. These treatment specialists are to be brought in from excellent rehabilitation centers close to the area of the prison.

Treatment specialists would be excellent to train correctional counselors on how to deal with the phenomenon of denial and defense mechanisms which prevent the criminal from facing his life of damage and violence to his/her fellow citizens. The specialist would be able to help correctional counselors also to pick-up when “compliance” takes place—telling the counselor what the counselor wants to hear. Also
they can help the correctional people see what are the indications of internalization and integration of progress in criminals’ lives.

A program of intervention and the use of Yochelson’s and Samenow’s treatment modality can be used continually through the whole incarceration process. As stated above, this intervention would be with the prison’s treatment persons individually and would be in the form of having the inmate face his/her criminal actions and questioning their lack of responsibility. As the inmate begins to understand the criminal errors that plague his/her life, the inmate is then able to move into the small groups which will deal directly with the criminal thinking errors.

This being said, the problem of rehabilitation of the inmate needs another component. Patterns of criminal behavior are deep and, much like addiction, they absorb large areas of the criminal’s life. It is also the experience of drug and alcohol specialists and the 12 Step Fellowships⁶⁷ that the resources of each individual are limited and incapable of dealing with the compulsion of addiction alone. It would seem that, given

⁶⁷The 12 Step Fellowships are based on the original program of Alcoholics Anonymous founded by Bill Wilson and Dr. Bob Smith in 1931. It was found that a religious or spiritual experience was important if the alcoholic was to remain sober. The twelve steps of recovery are built to have the recovering alcoholic begin a serious regimen of spiritual living directed to having a spiritual awakening. The importance of this program is that it has been successfully used for many other dysfunctional habits, life patterns, and addictions. The twelve steps of recovery, which are merely suggested not coerced, are not based on a creedal view of the transcendent which is initially seen in the early steps as a power greater than oneself whom one chooses to understand in his/her own way, e.g. step two, ‘Came to believe in a Power greater than ourselves, who would restore us to sanity.’ This gives the person considering these steps of spiritual renewal tremendous freedom. This freedom is the beginning of the person opening themselves up to the presence of the transcendent. It is here the transformation or rehabilitation of the person starts. One usually begins this process when one accepts that he/she is powerless to deal with their dysfunctional or unmanageable life and does not possess the resources to change it. Alcoholics Anonymous (New York: Alcoholics Anonymous World Services Inc., 1976), 58f.
the recidivism rate of criminals, something very similar is happening in the life of the individual offender. Institutions have no problem producing model inmates. In the correctional setting there is a large and ever threatening presence of authority with a real capability to lever the inmate to certain behaviors dictated by the institution. The problem is the ability to enact such a deep change that there is a real possibility of having the criminal become a responsible citizen. There is needed another dimension in the life of the criminal for restoration. The spiritual aspect of the 12 Steps of recovery attest to this need in human life, i.e. the spiritual dimension. This calls for another resource to enter into the life of the criminal to help him/her to stay honest and to persevere with the programs and treatment that will need to be ongoing for years, ongoing through incarceration, half-way house, and for years on the street.

The need for a spiritual aspect in human life and, in particular, the life of the inmate is part of the advocacy role of the Church. The advocacy of the Church offers to the state (the prisons) two important avenues. These are the possibility of the transcendent in human life and the reality of radical change of the human heart. These will be the two areas that will now be addressed.

It is important to bring the possibility of the transcendent into the public sphere for a number of reasons. One is that a considerable amount of human time and energy has been spent in this area of human life called religion. Religion has been the formative influence of cultures and civilizations including our own. Its possibilities are testified to by its universal presence as an experience in the whole human family.
In many ways, throughout history down to the present day, men have given expression to their quest for God in their religious beliefs and behavior: in their prayers, sacrifices, rituals, meditations, and so forth. These forms of religious expressions, despite the ambiguities they often bring with them, are so universal that one may well call man a *religious being*.

The possibility of the transcendent can also seen by taking the world and human persons as the starting point.

32. The world: starting from movement, becoming, contingency, and the world’s order and beauty, one can come to a knowledge of God as the origin and the end of the universe. 33. The human person: with his openness to truth and beauty, his sense of moral goodness, his freedom and the voice of his conscience, with his longings for the infinite and for happiness, man questions himself about God’s existence. In all this he discerns signs of his spiritual soul. The soul, the “seed of eternity we bear in ourselves, irreducible to the merely material,” can have its origin only in God. 34. The world, and man, attest that they contain within themselves neither their first principle nor their final end, but rather that they participate in Being itself, which alone is without origin or end. Thus, in different ways, man can come to know that there exists a reality which is the first cause and final end of all things, a reality “that everyone call ‘God.’” 35. Man’s faculties make him capable of coming to a knowledge of the existence of a personal God. But for man to be able to enter into real intimacy with him, God willed both to reveal himself to man and to give him the grace of being able to welcome this revelation in faith. The proofs of God’s existence, however, can predispose one to faith and help one to see that faith is not opposed to reason.

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68 *Catechism of the Catholic Church*, no. 28, 14.

69 Ibid., no.32,33,34,35.
This possibility of the transcendent offered to the inmate is not a violation of Church and State. This is not a statement of certitude which would begin to entangle the two institutions in the ‘God question.’ The presentation of the possibility as a fair and responsible option is much easier to defend. To say otherwise is to remove the option from the prison population which would be a violation of religious freedom. The possibility of the transcendent allows for freedom of choice. The inmate at this point is to be free in his/her choice as to whether there is a transcendent or spiritual dimension of life and whether he or she wishes to follow it. This choice is to be respected without any repercussions upon the inmate. However, it is to be periodically presented if and when the inmate would wish to change one’s direction, which again is a person’s prerogative. This does not excuse the inmates from participating in the programs of intervention and/or counseling in respect to their error in criminal thinking. This public presentation of the possibility of the transcendent allows the spiritual dimension of recovery to remain public and to keep it from fading from the attention of those who would desperately need it.

The Church, as an institution immersed in the transcendent by profession of doctrine and discipline of life, is to be the prophetic advocate that this possibility be brought effectively and continually in the public sphere of the treatment process of the felon. The reasons are twofold. One is that this important dimension of human life be present, because it belongs to the person as a right; and second, from the experience of many the transcendent presence and power is that which enables the change in the human
person to take place. The 12 Step programs are clear witnesses to this. The presence of
the engracing effect of the transcendent renovates and renews human life.

The first work of the grace of the Holy Spirit is
conversion, effecting justification in accordance with Jesus’
proclamation at the beginning of the Gospel: ‘Repent, for
the kingdom of heaven is at hand.’ Moved by grace, man
turns toward God and away from sin, thus accepting
forgiveness and righteousness from on high. Justification is
not only the remission of sins, but also the sanctification
and renewal of the interior man.\(^{70}\)

Roger Haight in an article entitled, ‘Sin and Grace,’ in the two volume work,
Systematic Theology, sees four effects of grace in human life. These are liberation from
sin, liberation to love, cooperative grace, living the divine life. In the first effect, the
liberation from sin, he sees Martin Luther as the main proponent of this effect for persons
caught up in damaging sinful patterns of thought and action. The entangling web of
sinful disturbance is overwhelming and the accompanying guilt becomes a crushing
burden. As the condition, whether of sinfulness, addiction or criminal behavior,
increases, the need for deliverance and liberation can become indeed desperate. Martin
Luther saw this liberation in the action of God on behalf of sinful humanity.\(^{71}\)

The release from sin that Luther describes is forgiveness;
it is not a negation of past sinfulness, which is impossible,
or an escape from fallenness. Human existence is
constituted in a condition of concupiscence and temptation
to which it freely yet invariably succumbs. The liberating
effect of grace lies precisely in God’s acceptance of human
beings as they are. Grace means that God is the lover of

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\(^{70}\)Ibid., no. 1989, 482.

\(^{71}\)Roger Haight, ‘Sin and Grace,’ Systematic Theology v. II., Francis Shusster Fiorenza
every single human being, infinitely and as if there were no other, with a love that makes each person infinitely valuable despite sin.\textsuperscript{72}

The impact of grace upon the ‘needy one’ is through faith which is seen as a total surrender of one’s will to God or the transcendent. This is a complete opening up of the person to accept what the presence of the Divine will offer, which is total acceptance of the person as the person is. Faith is the allowance of the infinite love of a Divine Presence to be part of ourselves. This forgiveness lifts the burden of guilt and dread and allows the healing process to take place in the deeper recesses of human life.

The second effect of grace is that it moves us from outside the entangling web of guilt and emotional disorder to the Divine Presence itself. The person is released and drawn by the transcendent. A motion is given to the person inclining the person to goodness and moral order and finally to the achieving of one’s final destiny.

Viewed in terms of Augustine, God’s prior grace liberates human existence from the bondage of egoism and opens up freedom by an impulse to love, pushing or drawing freedom toward self-transcending values and, through faith, toward God.\textsuperscript{73}

The first two effects of grace are liberating, that is freeing the person to be free; and directing the person to the transcendent. The third effect is that Divine freely invites the human person to cooperate in the common endeavor of creating a spiritually dynamic future in which the person grows and matures in the spiritual life, i.e. a life freed from the incapacity of the former life. It becomes a life of new awareness of one’s destiny, a life

\textsuperscript{72}Ibid., 118.

\textsuperscript{73}Ibid., 120-21.
of compassion and responsibility for one’s brothers and sisters, a life of profound respect for the Divine Presence in one’s life. This third effect is the reality that the transcendent desires the human person to be in partnership and cooperation. Thus, we are created with freedom by the transcendent in order that we may truly use this freedom to choose. Grace builds on nature and enters freely into dialogue with human nature.  

Three reflections help to soften the paradox involved in cooperative grace, although the relationship between grace and human freedom remains mysterious. The first is the principle of Aquinas that God always acts upon creatures according to their nature, and since freedom is of the nature of human existence, God acts within and not against that freedom. Thus one cannot conceive of human freedom as a merely passive instrumental cause of the activity and effects stemming from God’s presence within a human subject, because the instrument in this case is the free power and self-initiating energy of human freedom. The personalist context for understanding the dynamics of grace completely transcends images of mechanical force, power, or coercion.

The fourth effect of God’s grace is the participating in the life of the transcendent. This participation is a communion with the transcendent reality in another dimension. It is this participation which enacts a renovation of the person at the core of their being and begins the restoration process which flowers into the glorifying eternal life. 

A fourth effect of God’s personal self-communication as Spirit is a bestowal on human existence of a participation in God’s own personal life. Another way of expressing this bestowal anthropologically would be in terms of the transformation of human existence that this participation entails.

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74Ibid., 122-24.

75Ibid., 123.
This sanctifying and divinizing effect of grace is more typical of Greek than Latin theology, but it has been a standard feature in Catholic thought on grace since the medieval synthesis. In Aquinas, the primary referent of the term grace is a new and infused supernatural quality of the human soul. This habitual grace raises up human nature to a new supernatural level of participating in the divine life of God. In Rahner’s system, however, infused created grace becomes the effect of God’s personal self-communication to the human person.  

These important effects of the transcendent in human life are testified to by the many ages and religions of the human family. A witness of particular value to the importance of the transcendent are the 12 Step programs of recovery and their emphasis on the spiritual/transcendent dimension in human living.

In regard to the above description of grace in human life, I feel that it is important that the Church witness to the prison system her tradition and understanding of the presence of God who wishes and does engrace all of human life without condition or reservation. This Self devotion of God is then the Exemplar for human action on behalf of the human family and each member of it. There is no exclusion for any reason. Criminal behavior does not exclude one from God’s presence and, therefore, neither should we, our government or our institutions be exclusive of our presence. However, when the question of grace and the spiritual life is brought into the prison it needs to be “de-creedalized,” i.e. the specific points of revelation of a religion are not appropriate in the policies of a public institution. Therefore, as was stated above, there is to be presented the “possibility of the transcendent” to the inmate for his acceptance or

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76Ibid., 124-25.
rejection. This allows the spiritual dimension to have a public presence without violation of Church and State.

Another important aspect of grace within the Catholic tradition is that grace operates within the human condition and the human stage. The actions of God are not detached from the concrete historical condition and situation of human living.

The universal dialogue of God’s Spirit with human beings is not merely a theoretical construct but concrete and historical. Because human freedom is tied to matter, the only way human beings and God can interrelate is through the world and history, in concrete moments through the actual conditions and circumstances of each human life. It follows that for every human being the place, the medium, and the point of historical contact with God’s love consist in those things that make up the ordinary conditions of everyday living. The ordinary place of encountering God’s grace is the historical world. Granted, God’s presence as Spirit and offer of love is within each one always. In the light of revelation one cannot imagine God’s presence to human beings by creative power except as including God’s gracious personal love. But God’s love is meant to be appropriated by a personal response mediated through the concrete situation of each person. Thus on the one hand, concrete history unfolds within a sphere or region of God’s salvific love, present to each one, in such a way that all human beings, from the beginning of their existence, live in the condition of God being personally present to them in an offer of love. But on the other hand, God’s Spirit calls for response. Thus the concrete events of history become the media of the actual dialogue between human beings and God present and at work through them.77

Given the above, it is important to understand that the presence of the engracing God is in a correctional environment; and is involved with persons who have enacted serious damage against their brothers and sisters; and are contained and deprived of many

77Ibid., 116-17.
civil liberties as a matter of security. Therefore the opportunity of the encounter with the transcendent is to be fit into this concrete historical context. For this reason general religious services tend to have minimal impact on the general prison population in regard to rehabilitation. General religious services are for the day to day functioning Christians (Jews and Muslims) who do not suffer (at least on the surface of things) any serious lifestyle problems or deficiencies. This is not to say these are not to be present, but it is clear that many times they (religious services) by themselves are not the soil of change for the average convicted felon.

Therefore, the presence of grace begins with the confrontation of the inmate with the truth of his/her life, and the continuance of that confrontation in the sessions which speak to him/her about one’s criminal activity.

Generally religious services in prison do not confront the felon with the past. It is very often that the inmate at the surface accepts the good news that he/she is beloved of God and in God’s image and likeness. Criminals not dealing with their criminal attitudes tend to think they are decent people and tend to accept this part of religion which reinforces this concept of themselves. The phenomenon is typically known as jail house religion because nothing has changed. The inmate is now a religious leader in prison and is able to play the part. Religious leadership falls into one of Yochelson’s and Samenow’s areas of erroneous thinking. When they are discharged this soon disappears and the life of crime once again reemerges.

The interplaying of the institution and religion is important in prisons. The Religious Service Department, which exists in most prisons, provides the opportunity to
worship. The institution is responsible by law to provide this opportunity. However, religion can also cooperate with an institution to see the importance of a spiritual based rehabilitation. The Church’s obligation to the institution and to the inmates is to provide chaplains and/or trained volunteers and contract personnel who are aware of various spiritual programs and are able to function in both their specific religious task and the wider area of spiritual development. It would be extremely helpful if they would be familiar with the 12 Step programs and be attuned to a spirituality without creeds. They would act as facilitators between spiritual rehabilitation programs of the institution and the traditional religious services that could deepen their awareness of the transcendent.

What we are speaking of here is the presence of religion in the institution as such via the institution’s chaplain or contract clergy. The Religious Services Department or Chaplaincy then would not just offer religious services for inmates but would be a possible destination point once the institution presents or allows the presentation of the possibility of the transcendent. The Church then in this situation would be an advocate to the Catholic faith to Catholics or those interested in Catholicism to help with the beginning of the spiritual rejuvenation of their lives. Thus, we have a spiritual program (possibly 12 step based) which is part of the institutions treatment program which allows the possibility of the transcendent to enter into their lives and we are able to use the religious presence of the Religious Service Department or the Chaplaincy to work in partnership with the institution’s spiritual program. This allows the inmate of any faith to be touched by a spirituality afforded by the institution and for those of a specific denomination to enlist their faith in their new journey into the spiritual life.
Before we depart from this treatment of punishment and justice of the offender, the area of restitution needs to be addressed. St. Thomas Aquinas in the *Summa Theologica* states that restitution is a part of justice. Something which has been taken from a person who has rights over it or possession of it needs to be returned by the one who took it.

*I answer that,* To restore is seemingly the same as to reinstate a person in the possession or dominion of his thing, so that in restitution we consider the equality of justice attending the payment of one thing for another, and this belongs to commutative justice. Hence restitution is an act of commutative justice, occasioned by one person having what belongs to another, either with his consent, for instance on loan or deposit, or against his will, as in robbery or theft.\(^78\)

The importance of restitution to the victim is an important part of justice which must be addressed. The practical difficulty in restitution for the victim is that the perpetrator of the unjust act usually has little or no resources to compensate the victim for the damage done. This is particularly true in crimes which involve fairly large amounts of money or in long-term medical treatment.

The unfortunate upshot of this is that many times the victim is left with nothing while the criminal justice system goes on with the work of punishing the offender for the crime done. The person who has no means will do prison time continuing the situation of no restitution. The victim is usually ignored.

It would seem logical, given all this, that victims would be at the center of the justice process with their needs as a

\(^{78}\)Thomas Aquinas, *Summa Theologica* (New York: Benzinger Bros, 1947), II II, Quest. 62, art..1, 1455-56.
major focus. One might suppose that victims would have some say in what charges are brought and that they and their needs might be taken into account in the final disposition of the case. One could at least expect that they would be told when an offender has been identified and would be kept informed as the case moves through the court. In many cases, however, little or none of this happens. Victims have little say as to whether or how the case is prosecuted. Often they are taken into account only if they are needed as witnesses. Rarely are they notified when an offender is apprehended. Only where it is required by law do courts make any regular effort to notify victims of the process of the case through the court or to solicit their input into the final disposition. 79

This state of affairs is changing and efforts are being made to have the isolated victims helped in regard to what they have suffered and lost. However, more often than not, this does not begin to meet the needs of justice for the victim. As we have seen, the mission of the State is to restore order and justice in society. This then would include the aspect of restitution which is part of justice. The Church needs to advocate to the State its responsibility in the establishment of equity in society when justice is offered. State and federal laws need to be enacted to empower the State to be a mediator of justice in terms of addressing victim’s rights in regard to perpetrators who are unable to meet the demands of restitution. This would mean the State would restore to the victims that which would meet equity. The victim would be provided counsel by a mediation board in which fines and equitable standards for victims have already been put in place by the legislators. This area of restitution is essential to justice and is a core area of concern for the Church’s advocacy role and the exercise of its prophetic voice in society.

This process needs to be done quickly and efficiently for the victim who is also more likely than not in need. The State, for its part, as it dispenses punishment to the offender can begin to make the offender ‘pay his debt’ to society by garnishing wages at an equitable rate (whether in prison or out). In justice the offender is to pay some amount back to the State, to the extent which would seem equitable considering the financial situation of the offender and his/her family. Restitution, needless to say, is an area which needs to be developed if the criminal justice system is to have any credibility with the public. It will be something which will take time and effort to operate efficiently and equitably. The Church, however, needs to see that now is the time to begin.

The issues of justice, having been concluded, the next area of discussion in regard to crime and the offender are areas of contrition, forgiveness and reconciliation. In this area the Catholic Church can offer the wisdom of her teachings.

Our sacramental life can help us make sense of our paradoxical approach to crime and punishment. The sacrament of penance and the eucharist are real encounters with the saving Lord and central Catholic signs of true justice and mercy. Sinners are encouraged to take responsibility and make amends for their sins; yet we never give up hope that they can be forgiven and rejoin the community.

The four traditional elements of the sacrament of penance have much to teach us about taking responsibility, making amends and reintegrating into community:

- **Contrition:** Genuine sorrow, regret or grief over one’s wrongs and a serious resolution not to repeat the wrong.
- **Confession:** Clear acknowledgment and true acceptance of responsibility for the hurtful behavior.
- **Satisfaction:** The external sign of one’s desire to amend one’s life (this ‘satisfaction,’” whether in the form of prayers or good deeds, is a form of ‘compensation” or restitution for the wrongs or harms caused by one’s sin.)
**Absolution:** After someone has shown contrition, acknowledged his or her sin, and offered satisfaction, then Jesus, through the ministry of the priest and in the company of the Church community, forgives the sin and welcomes that person back into “communion”.

Centuries ago, St. Thomas Aquinas taught us that punishment of wrongdoers is clearly justified in the Catholic tradition, but is never justified for its own sake. A compassionate community and a loving God seek accountability and correction but not suffering for its own sake. Punishment must have a constructive and redemptive purpose.\(^{80}\)

Contrition involves a sorrow for the sinful act and the intention to change one’s life by not committing this sin again.

Contrition—Among the penitent’s acts contrition occupies first place. Contrition is sorrow of the soul and detestation for the sin committed, together with the resolution not to sin again.\(^{81}\)

During the offender’s incarceration and/or after his/her release a statement of sorrow for the criminal act done against the victim should be encouraged if it is seen to be appropriate at the time by correctional officials and the victim or the victim’s family.

This public contrition and acknowledgment is important for both parties for their inner healing and peace.

The confession of sins—The confession (or disclosure) of sins, even from a simply human point of view, frees us and facilitates our reconciliation with others. Through such an admission man looks squarely at the sins he is guilty of, takes responsibility for them, and thereby opens himself

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\(^{81}\)Catechism of the Catholic Church, no. 1451, 364.
again to God and to the communion of the Church in order to make a new future possible.  

This importance of sorrow and disclosure of wrong doing is also encouraged by the 12 Step programs for the inner healing of the troubled person. It is in Step 5 of their suggested program of recovering where it states: “Admitted to God, ourselves and another human being the exact nature of our wrongs”.  

In the Catholic Church forgiveness and reconciliation are given by God using the Church’s ordained representative. In an environment of offenders and victims it is the victim who is to forgive or not. This is something which the victim is free to do or not. If there is forgiveness, perhaps a small simple ritual could be enacted to show reconciliation with the victim.  

Part of the change of heart that is important for the offender and society is that the offender take positive and pro-active steps in his work of reparation for the damage done.  

Satisfaction: Many sins wrong our neighbor. One must do what is possible in order to repair the harm (e.g., return stolen goods, restore the reputation of someone slandered, pay compensation for injuries). Simple justice requires as much. But sin also injures and weakens the sinner himself, as well as his relationships with God and neighbor. Absolution takes away sin, but it does not remedy all the disorders sin has caused. [62] Raised up from sin, the sinner must still recover his full spiritual health by doing something more to make amends for the sin: he must  

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82 Ibid., no. 1455, 365.  

‘make satisfaction for’ or ‘expiate’ his sins. This satisfaction is also called ‘penance.’”

When the offender takes responsibility for reparation or satisfaction for a criminal act, he/she contributes to the conversion, and the rehabilitation process is well on the way. It may very well be the offender does not have the resources to handle the whole burden. But, as one’s status improves, it is important to monitor his/her attitude when more is expected of him/her in the obligations of satisfaction. When the offender is positive about making reparation or restitution, then it would be important to have a public ritual acknowledging his acceptance into society and that a reconciliation between the offender and his/her brothers and sisters is acknowledged.

Before beginning a short summary to end this chapter, there is the serious problem of dealing with the inmate who may very well be innocent and has no recognizable traits of criminality or the inmate who has made a bad decision of being with the wrong people at the wrong time and also has criminal traits that are difficult to detect.

In regard to the inmate who may be innocent one cannot keep him/her constantly in the intervention phase of treatment. A separate group needs to be formed. The concept of writing or journaling with a group is important. This process, recommended by Yochelson and Samenow, would reveal other areas that would need to be addressed, e.g. anger at incarceration. Of course one is not able to give special treatment to one who states their innocence for obvious reasons. These inmates are to do their time. The small group meetings of journaling one’s thoughts and a spiritual program developed along 12

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84 Catechism of the Catholic Church, no. 1459, 366.
Step programs would be of tremendous importance to the truly innocent, to help endure what is a horrendous miscarriage of justice. Needless to say, the religious presence in the institution needs to be sensitive to this possibility.

Those who have little or no evidence of criminality in their background could also be part of this group. An example would be the many inmates from the third world, driven by abject poverty, who see the drug market as a way out of this oppression. These inmates as well as others in the same type of position have serious issues going on inside them and need help in surfacing them and integrating a deeper level of spirituality in their lives. In both these areas the Church can bring to bear its tradition of suffering and the cross, to help turn bitter resentment into a redemptive moment of spiritual growth as the Church stands in solidarity with them.

In this chapter we have tried to bring to bear different aspects of the Catholic tradition which would allow the Church to act as an advocate to give guidance, support, and direction to institutions which have an extremely difficult task of dealing with persons who are hardened and spiritually damaged. The mystery of God, which was phrased as the ‘possibility of the transcendent,’ can anchor the Church’s tradition into the entire range of human actions and endeavors, including corrections. Starting with the reality of human rights as God given, violations of rights are in many ways a transgression of the sacred; sacred in terms of the Divine and sacred in terms of those upon whom the Divine bestows rights. Justice is then a clear concern for both the Church in its call to holiness and the State in its call to equity. Justice is the virtue which preserves the rights in both domains.
Violations of justice, then, are not just violations of law, but a trespass upon persons. For this reason the Church is not surprised that the repercussions of the injustice are serious indeed. It is in this area of justice that the most grievous offences take place. It is in the violation of the person and the person’s rights that an opposite destruction occurs in the perpetrator which we call sin. It is the Church’s experience that sin is not an evil which is easily gotten rid of. It alienates the perpetrator from not only the person damaged, but from the transcendent presence which is the ground of humanity in each person. Sin alienates the person from the source of his/her humanity and it seriously jeopardizes any possibility of return. The Church in its wisdom offers the awareness that there are some situations in life, as prisons, which become occasions for evil to continue and even flourish. The doctrine of original sin coupled with wrongdoing freely chosen gives good reason why prisons tend to be dark places. The theology of the Church in its understanding of sin points to an weakening of will and darkening of understanding in the wrongdoer, that all too often leads to a habitual lifestyle of crime.

Institutions can take advantage of the Church’s advocacy and of its message in using this key understanding of a sinful situation in a secular sense. The great themes of creation, the fall and redemption can operate in a public sphere. The presence of the Church is to continue to witness to the goodness of human nature and its hopefulness in its ability to respond despite the presence of sin. The basic goodness of creation remains and the institution can begin to build its programs on that reality. The Church in its defense of human freedom also must witness that human beings freely choose between good and evil; to freely do justice or not. Institutions then are to be aware of this innate
human faculty of choice. The sciences of determinism historically have had no effect in
the prison environment. Freely chosen acts of injustice have consequences and these
consequences must be faced up to by the offender. The offender is to be held responsible
and placed in an environment that speaks to the wrongs they have done and the
responsibilities they are to assume if they wish to share in the fruits of a life well lived.
The Church’s teaching on penance and the possibility of transformation allows hope to
the offender for a true transformation. Institutions have the personnel to begin this work.
The 12 Step programs of recovery are an ideal tool to mediate between treatment and
religion. In the movement of grace the inmate begins to experience true freedom in a
maturing spiritual life and in the experiences of restitution and reconciliation finds justice
as a personal lived experience. This experience has the capacity to make him/her whole,
perhaps for the first time in his/her life.

Finally the Church can be the advocate for the innocent in its unique experiences
of its innocent savior who was crucified as a felon. This act of injustice, which was the
redemptive moment for sinful humanity, has the capability of enacting in a person the
spiritual strength not only to be able to just survive the injustice but to be a person of
great power touching many hearts along his/her difficult pilgrimage. The redemptive act
of Christ was not trite, nor is its capacity to transform an innocent who has been unjustly
accused. The Church in her pastoral ministry to prisoners needs to emphasize to her
ministers the possibility of an inmate being innocent of the crime that of which he/she
was convicted. There needs to be a certain openness to all who come to the minister for
solace and direction.
Having dealt with the Church in its advocacy role in its witness to its tradition and its offering of its understanding of itself in the central areas of life for those who are incarcerated, we will in the next chapter discuss the impact of the criminal on those close to him/her. This and a review of the Church’s mission in regard to the prison system will be the concluding chapter’s areas of discussion.
CHAPTER FIVE

ADVOCACY-VICTIMS, FAMILIES, AND INSTITUTIONS

We saw in chapter four of this paper that elements of the Catholic tradition play a strong part in the direction that treatment/rehabilitation (conversion) of inmates should take. We will use these elements also in this chapter. In the first part of this chapter we will look at the people touched by criminal activity and give a possible avenue of help. In the second part we will cover the structural concerns of the correctional system where the Church can exercise its office of advocate. Finally, the chapter will conclude with a summary and conclusion about advocacy and the modern prison system.

On reflection from my experiences working in prisons there are three constituencies that criminal behavior impacts most intensely. These are the criminal’s family, the victims of the crime, and the workers in the correctional setting. Of the three, the criminal’s family suffers from what could be long term chronic stress which many times becomes acute and violent. The family of the criminal is more often than not also a victim of the criminal’s behavior. The second group, who are the victims per se, suffer from acute and possibly violent incidents with the offender causing much the same type of stress that the family endures, but it tends to be intense and relatively short in duration. The third group who deal with criminals in close contact and on a regular basis are correctional workers who are also impacted by the criminals’ behavior in a chronic sense. These workers differ from the families and victims in that the workers are people who also exercise authority and control over the criminal.
As we reviewed in chapter four, the presence of sin is part of the equation in dealing with criminal activity. If not actual or personal sinfulness, there is at least a state of evil and moral chaos which pervades the life of crime. A criminal act, such as robbery, assault or rape, impacts deeply the environment in which the act takes place. The criminal is degraded by his/her own act. This act will traumatize the victim and those living with both the victim’s family and the criminal’s. Evil done by a human person enters into others’ lives and changes those lives deeply.

In chapter four we had the advantage of using the work of Yochelson and Samenow in describing the thinking and behavior of the criminal. Such an extensive examination does not exist for the victim, the victim’s family and the family of the criminal or the correctional worker. However, there is a possible source that could be used for an initial look at what happens to those adversely impacted by criminal behavior. In chapter four we made reference to the 12 step programs of recovery several times. The oldest of these programs is Alcoholics Anonymous which very soon after its inception developed a “mirror” 12 step program called Al-Anon. Al-Anon is a fellowship founded by those adversely affected by persons suffering from alcoholism, especially the alcoholic’s family.¹ Alcoholism is an illness which brings evil into the world by a human act of irresponsibility. By looking at “how to deal with” the chaos and violence of alcoholism in the alcoholic’s life and in the lives of his/her family we perhaps can begin to develop a starting point to use for those impacted adversely by criminal behavior.

The Al-Anon book, *How Al-Anon Works*, describes the impact of the alcoholic on those around the alcoholic. The book speaks of five dysfunctional emotions which pervade the lives of those who deal with alcoholics. The first is obsession. People close to the alcoholic begin to be drawn into the drinker’s patterns and activities. They begin to be obsessed with his/her behavior.

These well-meaning people begin to count the number of drinks another person is having. They pour expensive liquor down drains, search the house for hidden bottles, listen for the sound of opening cans. All their thinking is directed at what the alcoholic is doing or not doing and how to get the drinker to stop drinking. This is their *obsession.*

This obsessive concern with the actions of the alcoholic is similar to the family of the criminal. The criminal by his/her behavior causes the family to constantly be on the alert to what will he/she be involved with next. What are the signs? What can I do? And so it goes.

As the personality of the criminally inclined child unfolds, his parents are gripped by a gnawing fear that something terrible is going to happen. Their nerves are constantly on edge. Every time the phone rings, their hearts sink. What is it this time—a distraught neighbor, a teacher reporting a fight, the police, or, worst of all, a hospital informing them that their child is injured or dead?

As their concerns mount, parents try new ways to cope with the youngster’s misbehavior. They more closely restrict his movement and privileges but end up suffering more than the child, who sneakily circumvents the restrictions or blatantly flouts them. In fact, it is a relief to the parents when they can bring themselves to lift the restrictions. Then there are fewer battles.³

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²Ibid., 18.

³Samenow, *Inside the Criminal Mind*, 42.
The second emotion displayed by those dealing with the alcoholic is anxiety. The alcoholic’s life of chaos and irresponsibility causes a tremendous amount of worry and anxiety by the family.

Watching other human beings slowly kill themselves with alcohol is painful. While alcoholics don’t seem to worry about the bills, the job, the children, the condition of their health, the people around them begin to worry. They make the mistake of covering up. They fix everything, make excuses, tell little lies to mend damaged relationships, and they worry some more. This is their anxiety.\(^4\)

Putting the family on edge is typical of the criminal and his/her behavior. The parents of a criminal soon realize that the criminal child will cause them undue pain and problems.

His mother and father do not perceive a pattern unfolding but assume that his waywardness is merely a stage of development. This ‘stage,’ however, never ends. The parents become the first in the criminal’s string of victims. Only it is not a one-time victimization. The emotional turmoil of seeing their child injure others and jeopardize himself is like a persistent searing pain. The parents’ interminable struggle to cope with this wayward youngster saps their energy, drains their finances, weakens their marriage, and harms their other children. But the criminal child remains unmoved and unaffected.\(^5\)

These anxieties often turn to fear both in regard to alcoholics who become violent and the criminal. Often the affected person turns his/her rage on the family members with dire consequences.

\(^4\)How Al-Anon Works, 18.

\(^5\)Samenow, 26.
The third emotion is anger. The feeling of worry, of being used, and manipulated, of being physically and emotionally hurt, often erupts in anger and leaves a lasting emotional scar of resentment.

Sooner or later the alcoholic’s behavior makes other people angry. They realize that the alcoholic is not taking care of responsibilities, is telling lies, using them. They have begun to feel that the alcoholic doesn’t love them and they want to strike back, punish, make the alcoholic pay for the hurt and frustration caused by uncontrolled drinking. This is their anger.\(^6\)

The amount of rage generated by the criminal is tremendous. The anger of victims is heard on a regular basis in the public media. The following from Samenow cases shows how far parents are driven by a delinquent child.

One boy was punished as a child by being locked in the bathroom, tied up in the basement, and beaten with a strap. He was the only one of six children who enraged his parents to the point that they meted out such brutal punishment. This is not to condone his parents’ methods of dealing with him. The point is that children like him, by their unrelenting provocation, may elicit a violent reaction even from a parent with a normally placid disposition. Rarely does that part of the story come out. A psychiatric school consultant, evaluating a 13-year-old delinquent boy, understood how a parent could be driven to extreme measures. He wrote in the youngster’s clinical record, “This is a child who relates to adults in a manner that could easily move the adult to be physically abusive.” There are no clinical studies that reveal why many, perhaps most, children who truly are victims of child abuse do not become criminals.\(^7\)

\(^6\)How Al-Anon Works, 18-19.  
\(^7\)Samenow, 44.
The fourth characteristic that predominates in the victims of alcoholics is that of denial. This is the unreal hope that somehow the problem has gone away or was not there in the first place. This tends to affect all human beings whenever a disaster strikes or a terminal state is diagnosed. The ongoing presence of the drinking alcoholic produces such a denial of reality.

Those who are close to the alcoholic begin to pretend. They accept promises, they believe. They want to believe the problem has gone away each time there is a sober period. When every good sense tells them there is something wrong with the alcoholic’s drinking or thinking, they still hide how they feel and what they know. This is their denial.\(^8\)

This same characteristic besets those who are in continual close contact with the criminal, usually the family and quite possibly the victim. This presence of denial is especially present to those who have a deep relationship with the criminal.

No matter how much upheaval in the family there is and no matter how serious the wayward child’s offenses, his parents believe for a long time that he is basically good. They have witnessed incidents of their offspring’s totally unacceptable behavior from the time he was little. But looking at each occurrence, they hadn’t seen anything particularly abnormal. As the child entered adolescence, they became perturbed because the frequency of serious incidents was increasing. Even so, they were aware of only a fraction of his delinquent activities as he was very adroit at covering his tracks. But to cling to a benign view of him in the face of his mounting difficulties becomes increasingly difficult and then impossible.\(^9\)

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\(^8\)How Al-Anon Works, 19.

\(^9\)Samenow, 45.
Finally the last characteristic that Al-Anon speaks of is guilt. This is the emotion that accuses the spouse or family of an alcoholic that they are somehow responsible for the drinker’s predicaments, misery and flight from the responsibilities of life.

Perhaps the most severe damage to those who have shared some part of life with an alcoholic comes in the form of the nagging belief that they are somehow at fault; they were not up to it all, not attractive enough, not clever enough to have solved this problem for the one they love. They think it was something they did or did not do. These are their feelings of guilt.\(^9\)

Self-blame occurs also with people who have to do with criminals on a regular basis and again where some deep relationship has been formed with the criminal. Parents especially are vulnerable to feelings of guilt, searching for answers why their child does things that are, to say the least, inappropriate.

Few parents remain indifferent or give up. They do what they can—spend more time with the child, enroll him in a different school, support his joining organized sports and clubs, send him to a counselor, seek counseling themselves. In grasping at possible solutions, the soul-searching goes on. Mothers and fathers blame themselves, each other, and people and events outside the family. The psychologically oriented devour books and then identify themselves as the causes of their child’s delinquency. Some parents seek therapy.\(^1\)

As was stated previously in chapter four of this paper the criminal not only is an agent of behavior that is quite damaging, but also his lifestyle is one of irresponsibility and lying. There is a parallel with the criminal and the alcoholic, in so far as the behavior

\(^9\)How Al-Anon Works, 19.

\(^1\)Samenow, 45.
of the alcoholic who, though he may not be violent, lives a life style of irresponsibility and deception. The characteristics of irresponsibility and lying (especially about one’s drinking) allow a point of connection which produces common symptoms in those who have dealt with alcoholics and those who have dealt with criminals. And thus it would seem that the emotional disorders of people who are or have been in contact with both are the same.

Given the fact that the criminal impacts his family, victims, and those who are in charge of his/her life (prison) adversely and that the five emotional and judgmental disorders described above as present in families of alcoholics are the same as that of criminals, we have a starting point where the Church can offer her wisdom and tradition. The effects of obsession, anxiety, anger, denial and guilt damage the whole person, creating physical stress, emotional upheaval, impaired judgement and possibly a stultified spiritual life. Central mysteries of the Christian faith, which were discussed in chapter four, can be brought to bear on this condition, these mysteries being: the goodness of creation, the reality and damage of sin, and the possibility of redemption or conversion.

The advocacy of the Church reflecting the Christian tradition is an important part of formation of attitudes. The criminal act brings violence and chaos into the lives of his victim and family. Criminals’ bad actions cause tremendous turmoil resulting in anger and resentment. Vengeance easily becomes the order of the day. Indeed the acts of the criminal are truly bad and all too often brutal. The action can easily lead us to disregard the humanity of the criminal which comes from God. However, as it has been stated in
numerous different ways by the American bishops in chapter two, even the most despised felons in our prison systems possess a goodness from nature.

The Church needs to be the constant and strong witness of the permanent inherent goodness of creation, especially in regard to humanity which is created in the image and likeness of the Divine. The witness to this truth is to be one which calls forth an act of faith and trust on who we are and what is our dignity. As stated previously, the belief in the goodness and dignity of humanity is not just a Catholic doctrine. The basic philosophy of this nation rests on the dignity and goodness of its citizenry, even in the prison system where rights of inmates are protected by law. This faith in one’s own goodness and that of another, regardless of actions, provides a firm foundation to move into life. This act of faith is to orient my attitude to the goodness of human nature and be a aid to not let the evil act of the criminal envelop my life.

Also, the sin of the world is a reality we all experience. The Church’s teaching that all are impacted by sin is an important teaching that the Catholic Church is to witness to. The universal aspect of sinfulness, whether personal sinfulness or the condition of sinfulness, brings damage to the victim, the victim’s family, and the criminal’s family in a very profound way, especially the loss of a loved one. Doctor Samenow and Al-Anon testify to the reality of that damage in life caused by irresponsible dangerous behavior. To ignore the reality of that damage by denial, to be obsessed with the perpetrator or be crippled by anxiety and fear, anger and guilt is to invite the evil brought into one’s life and to allow it to remain there as a festering wound of the soul.
Each of our lives has been devastated by someone else’s drinking. We cannot change that fact. We have been profoundly affected by the disease of alcoholism. Its effects continue to permeate our lives. Nor can we change the behavior or the attitudes of those around us. We can’t even put a stop to the drinking. We are powerless over alcohol. As long as we persist in the delusion that we can control or cure alcoholism, its symptoms, or its effects, we continue to fight a battle that we cannot win. Our self-esteem suffers, our relationships suffer, and our ability to enjoy life suffers. All of our energy is wasted on a hopeless endeavor until there is nothing left over for attending to our own needs. Our lives have become unmanageable.

Whether or not we live with active drinking, life is unmanageable whenever we lose perspective about what is and is not our responsibility. We take offense at actions that have nothing to do with us. Or we intervene where it is inappropriate and neglect our legitimate obligations to ourselves and others. Our misplaced concern for others becomes intrusive, meddling, resented, and doomed to failure. Instead of helping those we care about, we demonstrate a lack of respect for them and create discord in our relationships.

When our preoccupation with others distracts us from our responsibilities to attend to our own physical, emotional, and spiritual health, we suffer. Our health and self-esteem decline. We become incapable of accepting reality, coping with change, or finding happiness. Our lives fly out of control.¹²

Those powerful words from this 12 Step program serve as a challenge also to those whose lives have been damaged and enslaved in crime. The challenge is that the damage may be such that help from another is needed. This condition of evil is something which is upon me and has taken hold of my life. The criminal and his/her crime become part of my living.

¹²How Al-Anon Works, 45-46.
The victim, members of the criminal’s family, and correctional workers need an experience of deliverance from the oppression of crime. As in chapter four of this paper, the Church’s witness and advocacy of the availability of Divine help is of the utmost importance. The possibility of transcendent power can bring not just correction or justice but also can bring the experience of healing and serenity that are needed to make life free and vibrant. For some this would be the first time in years. The healing and strengthening effect of religion is testified to by the experience of millions of believers from many different faith traditions. The presence of the Divine allows the negative symptoms of anxiety (fear), anger, obsession, denial, and guilt to dissipate and the positive movement of the gift of peace and freedom enters into one’s life.

The three movements: the goodness of life, the acknowledgment of the reality and power of evil, and the offer of healing and the deliverance from the oppression of crime need a structure in which they can operate. The Church in her call to be an advocate is to see here an opportunity to offer a fellowship to those who suffer from the negative effects of crime in their lives. Of course, something along the line of a 12 Step program would be entirely appropriate allowing many different expressions and experiences of faith and, also, those of no faith to freely interact in the environment in which the transcendent is a possibility in life.

The correctional institution is limited in what it can do in regard to the criminal’s family or the victims. It can encourage meetings. An “off campus” location is usually more desirable. Here the Church can be of service by offering space and time for both
groups. The presence of chaplains familiar with their spiritual needs and problems will be great support to these people.

However, in regard to correctional workers there is an obligation that the prison system has in regard to its workers. The impact of the criminal attitude in prison is profound. The history of prisons, the misuse of authority by workers and the terror of prison life are all too often part of prison history which at times became sordid. Workers entering into prisons, especially those which house inmates who have lived careers of violence and deception, are continually subject to intimidation, disrespect and manipulation, which result in many leaving or losing their jobs. Some are involved in violent reaction against the criminal or being pulled into his/her criminal activity. More often than not there is a chronic deterioration of spirit in the worker which affects all within the system from warden to inmate. The workers need the support of the institution and of co-workers which will strengthen them in their attitude and to allow some vision of what they are to do in their work of correction with those incarcerated, rather than being a very expensive baby sitter service supported by tax dollars. The prison system has the ability to offer “time off” the reservation for workers to participate in programs dealing with stress, burnout, and the need of renewal. At the heart of this restoration is the spiritual renewal of the worker. The prison system has a large core of chaplains and psychologists who have the talent and ability to offer these programs on a regular basis. Again it is my opinion that a form of the 12 Step program will allow the presence of a spiritual program in the public arena, involving State time and money for personnel of diverse spiritual backgrounds.
Before leaving this specific area of the impact of criminal activity on people’s lives, there is a need to examine the lives of families whose family member may be incarcerated wrongly, or at least it is perceived that this is the case. It is important to take time with these people to see if the family member or friends is unable to come to grips with the inmate’s criminal behavior, or whether an absence of criminal life style and the possibility of innocence may very well be the case. The Church’s call to be a caring and healing companion on this family’s journey is as important as with an innocent person who is incarcerated. The strength from the ‘paschal mystery’ in their lives can be a powerful remedy of healing and life giving strength as they stand in vigil for their loved ones in prison, allowing them to be a source of hope and inspiration for the inmate.

The second part of this last chapter is to see if the objectives of freedom and justice, which are pertinent to the bishops’ teachings on the prison system as such, can be attained by the doctrinal positions of the goodness of creation, the reality of sin, and the possibility of restoration by the transcendent. The advocacy of the Church is to witness to the importance of the correctional systems within the State which is charged with the establishment of justice and the protection of rights and freedoms of all of its people. The presence of crime offends justice by its very act and prompts the State to restore the equity and balance demanded by justice. The act of a criminal demands some form of punishment which is to do the work of justice. The presence of the correctional system, then, is good, because its work is to see that full justice is given to the perpetrator.

As we have seen, prisons exist because of the reality of evil and injustice in society done by offenders. It is the work of the correctional system to begin the work of
justice and restoration. The work of justice is essential for the State, and its people have the right for it to be enacted in their lives. Prisons are part of this good in our present society.

The bishops in their pastoral on crime and criminal justice on November 15, 2000, reinforce the place and value of the prison system in society.

The protection of society and its members from violence and crime is an essential moral value. Crime, especially violent crime, not only endangers individuals, but robs communities of a sense of well-being and security, and of the ability to protect their members. All people should be able to live in safety. Families must be able to raise their children without fear. Removing dangerous people from society is essential to ensure public safety. And the threat of incarceration does, in fact, deter some crime (e.g., tougher sanctions for drunk drivers along with a public education campaign seem to have dramatically reduced the numbers of intoxicated drivers on our roadways). However, punishment for its own sake is not a Christian response to crime. Punishment must have a purpose. It must be coupled with treatment and, when possible, restitution.\footnote{United States Catholic Conference, *Responsibility, Rehabilitation and Restoration: A Catholic Perspective on Crime and Criminal Justice,* Origins 30,25 (November 30, 2000), 397.}

The work of freedom of the correctional system is also an essential component of creation. The correctional system needs a sense of freedom to work creatively establishing better and more humane paths to justice. This is not license but a freedom to do its work which is ongoing. Society has become more complex with the developing needs, sensibilities and complexities of the modern world. The Church in its advocacy role has the opportunity to witness and help the correctional system with its appreciation of the use of freedom and its responsibilities in allowing a fuller sense of justice to be
done. The rich tradition of the Church in justice can allow guidelines for the institution to act creatively and freely without the excesses and dangers of license.

However, as we have seen before, sin does enter into the social structures of human society with the result that it becomes embedded in our institutions and after a time becomes acceptable. Not only is it present, but also there is a tendency to deny the presence of sin in our social life, and there is a lack of will to change those conditions which produce unjust oppressive conditions. To refute such denials, one only has to look at the history of prisons in our country, even into the early twentieth century. Beatings and torture were part of the punishment that inmates received.

It is necessary to observe, however, that, as usual, the hopes of the reformers were not realized. With the exception of overt mutilation, almost every form of corporal punishment known to the pre-prison days was brought over into the prison system as a method of enforcing prison discipline. Floggings of the most brutal sort have been continued in conjunction with imprisonment right down to our own time, and deaths through over-severe whippings are not uncommon in our southern prisons and chain-gangs today.\(^{14}\)

The committing of a sin is a personal act for which the person who commits the sin is responsible. He/she is also part of society where the possibility of personal sinfulness, as vengeance, fear, and/or greed, can become so strong that institutions succumb to its presence. The result is policies and directions which allow and protect these negative and at times violent behaviors.

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Thus sin makes men accomplices of one another and causes concupiscence, violence, and injustice to reign among them. Sins give rise to social situations and institutions that are contrary to the divine goodness. “Structures of sin” are the expression and effect of personal sins. They lead their victims to do evil in their turn. In an analogous sense, they constitute a “social sin.”  

Roger Haight in his article, “Sin and Grace,” in the two volume work, Systematic Theology, sees social sin as not just an evil which enters into society without the human subject. There is what he speaks of as a subjectivity in society. Institutions do not evolve from nature but arise from human creativity and will.

While from one point of view society and its institutions appear to be objective, from another they must be considered subjective. This is easily demonstrated by their changeability and pluralism. Social institutions gradually change over time and become quite different from what they were. And at any given time the differences in the way even the most fundamental structures of human living unfold in various cultures show their relativity. No institutions, not even those governing sexual behavior, eating, or communicating, are sheerly the product of nature; every human institution is cultural, a product of human freedom and creativity.

Because of the involvement of human freedom, this evil then becomes a question of sin, for it is produced by the human beings willing and sustaining it. It is not of the category of personal sin, though my personal sin might be responsible for it being in an institution, but it is a social or structural sin formed out of human freedom standing against God’s will.

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15 Catechism of the Catholic Church, para. 1869, 457.
Social institutions, then, are grounded in human freedom. Born out of creative human response to the world and others, they are carried along by a human freedom that continually internalizes these patterns of meaning and behavior. From this point of view, then, one passes from the sphere of objective evil to that of sin. The destructive aspects of social institutions are more than objective evils that are contrary to the will of God; they are also sin because they are produced and sustained by human freedom. This sin, however, is not personal sin; it is not necessarily formal sin in the sense of being deliberate; it is precisely social sin. As distinct from personal sin or actual sinning this social sin is an integral part of what has traditionally been called original sin.\(^7\)

The bishops of the United States were very aware of this aspect of evil in the correctional system. Their pastoral, found in *Origins*, Nov. 2, 1973, speaks of this concern.

In recent years Americans have experienced deepening concerns over the presence and nature of crime in our nation. We share this concern. Fully adequate law enforcement and protection of law-abiding citizens are clear but unmet needs. We oppose violence, whether in defiance of law and order or under the cover of preserving law and order. We oppose both “crime in the streets” and “white collar crime.” Dedicated people throughout the country are earnestly striving to identify and deal with the roots of crime. Some, very properly, are questioning society’s reaction to victimless crimes. Others are addressing themselves to the issues of law enforcement and the procedures of our criminal courts. Still others are concentrating their attention upon the manner in which suspects and convicted criminals are dealt with and provided for while incarcerated.

The numerous reports issued by representatives of this last group, coupled with incidents of violence in correctional institutions across the nation, have aroused many consciences. In a few instances, federal district court

\(^7\)Roger Haight, “Sin and Grace,” 104-5.
orders have dealt positively with abuses in local institutions of incarceration, because some of the constitutional rights of the resident offenders were being violated. We believe it is timely and urgent that we express ourselves on the moral problems involved in sentencing and incarcerating violators of the law.\(^\text{18}\)

The Church clearly sees that she is to be an advocate of the very real presence of sin in our criminal justice and correctional systems. The problem of discrimination against minorities, the poor, and the marginalized which make up the vast number of a vast prison system is a good example of social or structural injustice. We are a people who are increasing the number of people incarcerated and for longer periods of time, even though the rate of crime is decreasing.

Why pay attention to the experience of the imprisoned? There are several important reasons, some sociological in nature, some phenomenological. I begin with the former. One reason, in twenty-first century America, to focus on inmates is simply because there are so many. The United States now incarcerates over two million men and women. In 1972, the United States held a little over three hundred thousand inmates. That this has increased six-fold in the last three decades is a result of a myriad of factors including the war on drugs with its focus on criminalization and punishment, and an overall trend toward longer sentences and reduced use of parole. The incarceration binge has continued largely independent of criminal activity. Crime has decreased for the last nine years, during which time the prison population has risen precipitously.

Our incarceration rates are six to ten times as great as similar Western industrialized countries. For example, we hold more prisoners in one State (California) than do the nations of France, Germany, Great Britain, Japan, Singapore, and the Netherlands combined. The United States, though it has but 5% of the world’s population, holds fully one-quarter of the world’s prison population.

We might say the U.S. has embarked on a unique social experiment. In response to a complex variety of social ills, we respond with one ‘simple solution’: place an ever-increasing proportion of our citizens in cages. Needless to say, this strategy has impacted disproportionately minority populations whose social position is already disadvantaged. Though African-Americans compose 13% of Americans, they represent 46% of all inmates in U.S. prisons. Fully 63% of inmates are either Hispanic or black.

For sociological reasons alone it is thus important to pay careful attention to the experience of these two million. Their presence has been erased from the common society, but must not be from our scholarly and public discourse. Otherwise, the wisdom of our prison ‘solution’ will continue to go unchallenged.\(^\text{19}\)

Sin, present in humanity, tends to blossom in prisons. Correctional facilities can easily become ugly places to live and work. And, if they are poorly run, they can be quite dangerous. Negative attitudes are usually prevalent in correctional facility impacting those who work and live there. An acceptance of no possibility of change is all too often the lot of the inmate; and, unfortunately, this dark attitude is brought home by the staff to his/her family. Family and marital problems of correctional workers like the police are all too common. As we have spoken of the reality of sin, so also we have spoken of the possibility of transformation by the transcendent in people’s lives. If there is, then, the presence of structural sin, is there then not the possibility of its counterpart, structural or social grace? If the sin originates in the person and begins to be structural in institutions,

so then the presence of grace which transforms personal life can and is to be brought to bear on institutions.

One cannot avoid speaking about social grace today for two reasons. The first is negative; there has never before been such an awareness of social evil, which is not simply objective evil but sin. The great sin that bears down on individuals and corporately on human existence as a whole is social. If grace is understood only and exclusively on the individual level, then it leaves this world in its socio-historical forms of sin. Positively, since human existence is social, one must ask the question of the relationship of grace to social existence. What is the impact of grace on society? If by analogy with personal sin one can speak of social sin, there must also be a correlatively analogous reality of social grace. The question concerns the way one should define, explain, and talk about this grace.

The idea of social grace, like the recognition of grace generally, can be conceived only against the background of sin and death. On the individual level, sin and grace are revealed together. Sin appears as against the background of grace as that which should not be; and grace appears against the background of sin as God’s movement within human existence that overcomes a “natural” but free propensity to sin. So too on the macro or social level of sin. However one explains the phenomenon of social sin, the contrary to it will appear as social grace. One may define social grace, then as the institutionalization and objectification of the dynamics of grace originating in personal-individual freedom.20

Structures which house or influence negativity and violence come from sinfulness and impact those who live within these institutions, pollute the moral environment so to speak, and human freedom is impacted adversely by the oppression of sin. So also can structures which are formed out of engraced, self transcending human freedom impact human life, increasing creativity, human care and freedom before the world.

20Roger Haight, 129-30.
Human beings create social institutions; they are not given with nature. When one finds just institutions, organizations that are dedicated to the nurture and care of human life not only of their members but also of those whom the institutions affect, it may be assumed that they derive from the wills of people who are concerned about others. Institutions dedicated to the enhancement of the common good stem from self-transcending freedom that is actively concerned with equality and the protection of life. This is the subjective side of social grace.

But institutions are also objective relative to the freedom of any individual; they are prior to and become the internalized context for the exercise of any particular person's freedom. They appear in every sphere and phase of life helping to form that second nature that in turn shapes ideas, values, and concrete modes of behavior. When the influence of these structures urges self-transcendence in the service of other human beings, the institutions in question may be considered objective channels of God's grace.  

Institutions so impacted by grace allow an openness to growth. Touched by the Divine presence they move out of the blind alley of false truths which lead to oppression of the spirit and allow our institutions and society to be transformed, a new creation if you will. The Church has been called to the impossible task of advocating the transformation of the modern prison system. Without the presence of grace this becomes a task that is indeed impossible. However, with faith in the presence and power of her Lord, the Church is to have confidence that she can and will fulfill her mission effectively.

Therefore the Church faces the challenge of being an effective advocate of human freedom and justice in dealing with the correctional system. Not only is she to be the defender of human dignity, but she is to exercise her voice on the two great Christian doctrines of sin and redemption. For the Church to be effective, she has to be active in

21Ibid., 130-31.
lobbying the bureaus and departments of correction on the county, state and federal levels. All prisons have and should have community boards and councils to give input to the prison system from the grass roots level. The Church needs to examine these and to exercise her influence in the formation of them, if they do not exist, and the reformation of those that do, so that they may act as a forum by the people in a community dialogue which is to be representative of faiths, businesses and service organizations. These councils in their dialogue are to be focused on the questions of human freedom at all levels of the system; and the accomplishment of the never ending realization of justice which affords equity, restoration, forgiveness and healing. The dialogue on freedom and justice must continually revisit the great questions of human life in the correction systems and institutions, questions of human dignity and the goodness of human nature; questions of the reality of evil, personal and structural sin; and finally questions which would open the system and its people to transformation by the possibility of the transcendent.

Throughout this paper we have dealt with certain doctrines and principles of the Catholic tradition. Chapter four and this chapter revolve around three basic teachings of the Catholic tradition. These involve the doctrine of creation, the doctrine of sin and the doctrine of grace and redemption. These three teachings are directed to the goals of freedom and justice/healing. These are the keys of the Church’s advocacy role in the modern prison system.

In chapter one we saw that the Church was indeed concerned with these doctrines and goals for those members of our human family who did not enjoy status and wealth. In her teaching it was the working poor, the marginalized and oppressed about whom she
was most concerned. Worldly values are not the values of our Church in viewing human
worth. As we saw from the scriptures God sees value in all of his people, even those who
are strangers and without franchise.

You shall not violate the rights of the alien or of the orphan, nor take the clothing of a widow as a pledge. For, remember, you were once slaves in Egypt, and the Lord, your God, ransomed you from there; that is why I command you to observe this rule.

When you reap the harvest in your field and overlook a sheaf there, you shall not go back to get it; let it be for the alien, the orphan or the widow, that the Lord, your God, may bless you in all your undertakings. When you knock down the fruit of your olive trees, you shall not go over the branches a second time; let what remains be for the alien, the orphan and the widow. When you pick you grapes, you shall not go over the vineyard a second time; let what remains be for the alien, the orphan, and the widow. (Deut 24: 17-21).

This and other examples that we saw in chapter one speak of God’s personal care
and His role as Advocate to those who suffer injustice and have little or none of this
world’s goods. This Advocacy of God is reflected in the apostolic voice of the New Testament. The Church is urged to be with God in the long and difficult work of standing
beside our brothers and sisters in need.

Suppose there should come into your assembly a man fashionably dressed, with gold rings on his fingers, and at the same time a poor man in shabby clothes. Suppose further that you were to take notice of the well dressed man and say, “Sit right here, please,” where as you were to say to the poor man, “You can stand!” or “Sit over there by my foot rest.” Have you not in a case like this discriminated in your hearts? Have you not set yourselves up as judges handing down corrupt decisions?

Listen dear brothers. Did not God choose those who are poor in the eyes of the world to be rich in faith and heirs of
the kingdom he promised to those who love him? Yet you treated the poor man shamefully. Are not the rich exploiting you? They are the ones who hale you into the courts and who blaspheme that noble name which has made you God’s own. (James 2: 2-7).

These and other voices from apostolic authority tell of our work for those for whom God has a special concern, those in difficulty, in affliction and in need. This work of advocacy has clearly been seen in the modern papcy beginning with Pope Leo XIII in his encyclical Rerum Novarum.

Justice, therefore, demands that the interests of the poorer population be carefully watched over by the administration, so that they who contribute so largely to the advantage of the community may themselves share in the benefits they create—that being housed, clothed, and enabled to support life, they may find their existence less hard and more endurable. It follows that whatever shall appear to be conducive to the well-being of those who work should receive favorable consideration. Let it not be feared that solicitude of this kind will injure any interest; on the contrary it will be to the advantage of all; for it cannot but be good for the commonwealth to secure from misery those on whom it so largely depends.22

We see this teaching of advocacy by the Popes of the latter part of the 20th century putting the basis of our social teaching on the fundamental doctrines of the goodness of creation, the reality of sin, and the presence of grace and redemption. The use of ourselves as the image of God is present through their teachings. Pope John Paul II in referring to the noble challenge of work refers to this dignity in the following quote.

As man, through his work, becomes more and more the master of the earth, and as he confirms his dominion over the visible world, again through his work, he nevertheless

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22 Rerum Novarum, 27, O’Brien and Shannon, 27.
remains in every case and at every phase of this process within the Creator’s original ordering. And this ordering remains necessarily and indissolubly linked with the fact that man was created, as male and female, ‘in the image of God.” This process is, at the same time, universal: It embraces all human beings, every generation, every phase of economic and cultural development, and at the same time it is a process that takes place within each human being, in each conscious human subject. Each and every individual is at the same time embraced by it. Each and every individual, to the proper extent and in an incalculable number of ways, takes part in the giant process whereby man “subdues the earth” through his work.  

The teaching of modern Catholic social thought focuses on the worth of human life in the many and diverse situations of human living. This orients the Church and its advocacy to be a community of respect and compassion to our brothers and sisters in accordance with the gospel. Thus, the first movement of the Church in dealing with others and its advocacy in regard to those who are poor, marginal and without franchise is that of unconditional respect and compassion for they share in the goodness of the Creator. They are made in God’s image.

However the second doctrinal teaching gives us the second movement of the Church’s advocacy role which is the reality of sin. Pope John Paul II speaks of that reality in the world and the need for the Church to recognize it in the social issues that are faced by God’s people. It is an imposing obstacle to the movement of goodness inherent in creation and human life causing damage and pain on all levels.

If the present situation can be attributed to difficulties of various kinds, it is not out of place to speak of “structures of sin,” which, as I stated in my apostolic exhortation

Reconciliatio et Paenitentia, are rooted in personal sin, and thus always linked to the concrete acts of individuals who introduce these structures, consolidate them and make them difficult to remove. And thus they grow stronger, spread, and become the source of other sins, and so influence people’s behavior.  

We see this in the many difficulties encountered in the process of obtaining justice and in the presence of oppression suppressing human freedom. This is expressed as sin, personal and structural, which influences the behavior and the environment of human life.

However, universally present as sin is, the third movement of the Church’s advocacy role is the doctrinal teaching of the Church that gives permanent hope. This third teaching of the Church’s advocacy which gives hope is the possibility of grace and redemption. Social conditions of despair and disruption are able to be overcome by the presence of the Supernatural Gift of the Lord. Hope is able to be realized because of the Redeemer’s victory over the darkness of sin which has oppressed human freedom and allowed us to suffer under the yoke of injustice.

Listening to the cry of those who suffer violence and are oppressed by unjust systems and structures, and hearing the appeal of the world that by its perversity contradicts the plan of its Creator, we have shared our awareness of the Church’s vocation to be present in the heart of the world by proclaiming the Good News to the poor, freedom to the oppressed, and joy to the afflicted. . . The uncertainty of history and the painful convergences in the ascending path of the human community direct us to sacred history; there God has revealed himself to us, and made known to us, as it is brought progressively to realization, his plan to liberation and salvation which is once and for all fulfilled in the Paschal Mystery of Christ. Action on behalf of justice and participation in the transformation of the world fully appear

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24 Sollicitudo Rel Socialis, 36, O’Brien and Shannon, 419.
to us as a constitutive dimension of the preaching of the Gospel, or, in other words, of the Church’s mission for the redemption of the human race and its liberation from every oppressive situation.

This quote from the Synod of Bishops clearly teaches the hope and the reality of redemption and transformation of human life. Therefore, the three doctrines of creation, sin and redemption present in our dealing with inmates, the victims of crime, their families, the correctional workers and the system itself are reflected in the Church’s social teaching on a macro level. This is clearly seen on a more specific level in chapter two that the Church is indeed called to be an advocate to the modern prison system. This advocacy includes all those involved in the system itself. We saw, of course, that it concludes the inmates incarcerated within the prisons. It includes their families and their victims with their families. It includes the workers in the institution and the many administrative levels and leadership of the system itself.

In conclusion the advocacy role in this paper has been described as an advocacy for freedom and justice. Freedom is meant in the full sense of the word; not only allowing each party their basic rights, but freedom which moves through evil to justice by allowing the possibility of the transcendent to move each level to new and creative levels of flowering of human capacity. It is not justice as in vindictive return but moves into equity despite the obstacles of anger and fear. The justice, the advocacy that God asks of his Church, is an advocacy of conversion, of restoration and of healing. The Church, as the ‘old scribe’, can pull from the storeroom of wisdom direction and vision to her sister

institution (the prison system) to do the work of justice. This wisdom, as we have seen, teaches the goodness of the world and ourselves. It is a goodness which is inherent despite the many evils and sin which beset us. The wisdom speaks also to the ravages of human sin and its damage to our God-given gifts of freedom and justice. The reality of our sinfulness though is out-distanced at every turn by the Gift of the Lover for His created bride, the human family. Whether estranged, or poor, or in prison, this understanding of the role of the Church is seen to be in full accord with her social teaching.

We live in a democracy in which we, as a Church, are a player in an open and free society. The witness to those involved in the prison system is to be consistent and is to challenge our people in the work of justice. We are to be a people who ask of ourselves what God asks, freedom and justice. The Church is to be that advocate in the world accomplishing these goals through being a witness to our basic goodness, to the reality of our sinfulness and to a real hope of transformation and redemption.

Guided them by a direct path so they reached a city to live in. Let them thank the Lord for such kindness, such wondrous deeds for mere mortals. For he satisfied the thirsty, filled the hungry with good things. Some lived in darkness and gloom, in prison, bound with chains, Because they rebelled against God’s word, scorned the counsel of the Most High,
Who humbled their hearts through hardship;
they stumbled with no one to help.
In their distress they cried to the Lord,
who saved them in their peril,
Led them forth from darkness and gloom
and broke their chains asunder.
Let them thank the Lord for such kindness,
such wondrous deeds for mere mortals.
For he broke down the gates of bronze
and snapped the bars of iron.
(Psalms 107, 10-16).
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