



Death Chamber, Louisiana State Penitentiary, Angola

Photo courtesy of Richard Ross, *Architecture of Authority* Aperture Press, 2007

Louisiana’s Historic Opportunity to End the Death Penalty and Affirm Life

By Alex Mikulich, Ph.D.

In September 2011, Louisiana Catholics Committed to the Repeal of the Death Penalty publicly launched its campaign to end the death penalty in Louisiana. The Louisiana Conference of Catholic Bishops initiated this campaign in 2010. This essay highlights key findings of a comprehensive study of Louisiana’s use of the death penalty that I have conducted over the past year. The full study, co-authored with Sophie Cull of the Louisiana Capital Appeals Project, was part of the campaign’s launch.

Louisiana is a case in point of the fact that the modern death penalty in the United States emerged as a “law and order” alternative to the “rough justice” of lynching in the 19th and early 20th centuries and as a way to enforce racial hierarchy.¹ White complicity in this legacy endures. Disproportionate arrests, prosecution, capital sentencing, and

application of the death penalty against African Americans belie any claim that the administration of the capital punishment in Louisiana is rational or fair.

Standing among those Southern states that have most aggressively utilized the death penalty, Louisiana illustrates the key differences of retentionist states from abolitionist states. The social scientific literature indicates that states that were slower to develop formal governmental institutions, slower to establish formal due process mechanisms to secure rights of defendants, that have legacies of lynching, that have high homicide rates, that most resisted passage of Civil Rights laws, and states with least developed social welfare systems are states that most vigorously retain the death penalty.²

Conversely, abolitionist states developed formal governmental systems earlier, retain stronger formal due process

mechanisms for defendants, have lower homicide rates, have more developed social welfare systems, tend to have stronger traditions of anti-death penalty advocacy, and more homogeneous populations without histories of racial hostility. These states are predominantly in the northeast and Midwest and also include Alaska, Hawaii, North Dakota, and New Mexico.

—Continued on page 2

INSIDE:

- CST and the Death Penalty.....p. 3
- The Debt Debate Debacle.....p. 4
- My Experience in Immigration Detention .p. 6
- SASI Photo Collage.....p. 7

JustSouth is published quarterly by the Jesuit Social Research Institute, Loyola University New Orleans, 6363 St. Charles Avenue, Box 94, New Orleans, LA, 70118. Copyright 2008 @ Jesuit Social Research Institute. ISSN 2161-315X.

Illinois is the fourth state in four years to abolish the death penalty. The legislation, signed by Governor Pat Quinn in March 2011, was successful because both conservative and liberal legislators agreed that expenses for the death penalty would be better applied to support for victims and other law enforcement needs, that the death penalty was not an effective deterrent, and that it was unfair in light of the 20 exonerations—more than the number of executions (12)—in the state since 1976.

The states that use the death penalty most in the nation include Alabama, Florida, Louisiana, and Texas. Since 1976, Texas has executed 449, Florida 69, Alabama 44, and Louisiana 28 people.

Although African Americans constitute 33 percent of total Louisiana population, 64 percent of death row inmates are African American. Conversely, whites constitute nearly 65 percent of total Louisiana population, yet whites make up only 35 percent of death row inmates. This fact should give us pause to ponder the reasons for this disproportionality.

The contemporary use of the death penalty in Louisiana cannot be understood out of historical context. Louisiana may be the most diverse Southern state, both culturally and topographically, with the Cotton Belt of the north, the Sugarland and Cajun areas of south Louisiana, and one of the South's largest cities, New Orleans. All of these areas, in different ways, either resisted or revolted against the post-bellum, modern development of legal due process in order to enforce racial hierarchy through lynching or mob violence against African Americans.³

For example, according to the Tuskegee Institute, Caddo and Bossier Parishes often led the nation in use of lynching against African Americans between 1900 and 1931. Currently, 46 percent of all inmates on death row were convicted in three parishes: East Baton Rouge, Caddo, and Jefferson.

East Baton Rouge is especially instructive. A comprehensive study of 191 homicides in East Baton Rouge between 1990 and 2008 finds that the odds of a death sentence were almost three times higher for those who killed whites than those charged with killing African Americans. After controlling for the number of aggravating circumstances, number of concurrent felonies, and number of homicide victims, the study found that the odds of a death sentence are 97 percent higher for those who kill whites than those who kill blacks. The authors conclude: “these results are remarkably consistent with general findings from previous research across a multitude of jurisdictions in the United States over the last thirty years.”⁴

These historical patterns are found in multiple dimensions of Louisiana's criminal justice system. For example, our full study highlights the following:

- Eight African American men on Louisiana's death row have been exonerated of the crimes for which they were wrongly convicted. Louisiana is fifth in the nation in the number of people exonerated from death row.
- The Louisiana Crisis Assistance Center's 2003 “Black Strike” study found that the Jefferson Parish District Attorney's Office chose to strike African American jurors at three times the rate that they struck white jurors.
- According to a National District Attorney's Association 2011 study, nearly 98 percent of district attorneys in states that apply the death penalty are white. In Louisiana, 97.5 percent of DAs are white and only 2.5 percent are African American. Of 291 Louisiana state judges, only 18 percent are African American.

In light of this enduring legacy, Senator Mary Landrieu proposed and the United States Senate passed Senate Resolution 39 in 2005, an historic apology issued to lynching victims and their families for the failure of U.S. Congress to end this practice. In the spirit of Senate Resolution 39, which calls upon citizens to remember “the history of lynching to ensure that these tragedies will be neither forgotten nor repeated,” we Catholic Louisianans commit ourselves to Christ Jesus to remember, to understand, and to change this violent legacy, including its contemporary manifestation in the death penalty. This is an historic opportunity for the people of Louisiana to end this violent legacy and join the growing number of states that affirm life over death.

ENDNOTES

- 1 Michael J. Pfeifer, *Rough Justice: Lynching and American Society 1874-1947*. (Urbana: University of Illinois Press, 2004). See also Adam Fairclough, *Race and Democracy: The Civil Rights Struggle in Louisiana* (Athens: University of Georgia Press, 1995).
- 2 David Garland, *Peculiar Institution: America's Death Penalty in An Age of Abolition*. (Cambridge: Harvard University Press, 2010).
- 3 Ibid., *Rough Justice*, p.22-24.
- 4 Glenn L. Pierce and Michael L. Radelet, “Death Sentencing in East Baton Rouge Parish 1990 to 2008,” *Louisiana Law Review*, Vol. 71, 2011, pages 647-673. Timothy Lyman gathered the data for East Baton Rouge and Caddo Parishes.