

# Death-penalty doubts

From the Editors in the [February 24, 1999](#) issue

The death penalty has been brought before our consciences again by three recent events. The first was Pope John Paul II's visit to St. Louis in January, where he persuaded Missouri's governor to commute the death sentence of Darrell Mease. It did not matter to the pope that Mease had been convicted of a triple murder and had never shown any special amendment of life. The pope was not looking for an appealing born-again prisoner, another Karla Faye Tucker, to justify his witness. He simply sought, as a matter of principled opposition to capital punishment, to save a human life.

The pope's pro-life ethic cuts across the usual contours of the liberal-conservative divide in American politics. Americans (and Catholics) who support the pope's opposition to abortion and assisted suicide may waver when it comes to opposing the death penalty. In fact, polls show that a majority of American Catholics support the death penalty.

The pope's opposition to the death penalty appears to have carried little weight in the heavily Catholic Philippines. Earlier this month the country carried out its first execution under a new law restoring capital punishment. "Something in us has been broken, something has been diminished," commented a spokesperson for the Catholic Bishops' Conference. (See story, page 212.)

In Chicago, the newspapers were flooded in recent weeks by a story that underscored some pragmatic reasons to oppose the death penalty. A black man from Chicago's South Side was released from death row after 16 years of prison. Anthony Porter, who has an IQ of 51, came within two days of receiving a lethal injection last fall. His execution was postponed when the courts agreed to a hearing on his mental competency. Then he had the good luck to have his case taken up by a Northwestern University journalism professor, David Protess, and his students. They managed to cast doubt on the original conviction-based on a lone witness-and lead police to a prisoner in Milwaukee, who eventually confessed to the killings for which Porter had been sentenced.

Since it took 16 years and the fortuitous intervention of a journalism class to bring justice for Anthony Porter, it can hardly be said that the system worked. Porter's case brings to light the very real danger that overzealous prosecutors, sloppy legal work and poor legal defense teams will send people to their deaths for crimes they didn't commit. As long as this is not only possible but likely, how can the death penalty be defended as just?

In the popular mind, murder defendants receive innumerable chances to appeal their cases; surely, by the time of execution, their guilt is firmly established. In fact, according to Thomas Geraghty, a law professor at Northwestern, most appeals courts consider only whether the law was properly applied in the original case. They do not offer prisoners the chance to revisit the question of guilt or innocence.

Porter's was not an everyday case, but it was not rare. Illinois has released ten prisoners from death row since 1977, and Florida has released 19. His release underscores the need to put new safeguards into the legal system that tries capital cases. It points out the need for laws exempting the mentally disabled from execution. These are reforms that both principled and pragmatic opponents of the death penalty should support.