



We Are Not God: No Way to Devise a Fair Death Penalty

Glenn Ford
Photo courtesy of Gary Clements

An Interview with A.M. "Marty" Stroud III

By ALEX MIKULICH, PH.D.

Glenn Ford was released from Angola's death row in Louisiana in 2014 after he spent 30 years there for a murder he did not commit. In a rare and unusual twist for any death penalty case, the former district attorney who prosecuted and gained Ford's conviction in Caddo Parish in 1984 apologized to Ford in 2015, just months before Ford succumbed to cancer on June 29.

Sidney Garmon, director of the Louisiana Coalition for Alternatives to the Death Penalty, and I had the privilege of interviewing A.M. "Marty" Stroud III on May 29, 2015, in his Shreveport law office. The following is an abbreviated and edited version of our conversation. A video series of the interview is available at the Jesuit Social Research Institute's YouTube page.

How do you view the death penalty after Glenn Ford's release?

AMS: People say it is "the system." Who is the system? It's just doing your job. I was a history major in college and I have studied the Nuremberg trials. One of the big defenses [by Nazi officials] was that they were "just doing their job—just following orders." The judges in the Nuremberg tribunal universally rejected that defense. When you

are dealing with issues of life and death, saying that you are "just doing your job" is not going to cut it. That is the problem with the death penalty system now. Glenn Ford spent 30 years on death row for a crime he did not commit, and no one takes responsibility. The [Louisiana] compensation statute is written in such a way that it is obscene. Nobody is held accountable for a [man] who spent 30 years on death row. They gave him a \$20 cash card when he left prison. That is where the rub is. No one seems to care.

So how does that change your view of prosecution?

AMS: If you are going to prosecute a death case you should be well-versed not only in the law but also in philosophy and psychology, in good and evil, and life and death. My flaw [in 1984] was that I did not appreciate the consequences of a death penalty case. I tried it like any other case. It is a unique case. I don't think I was mentally competent to try it. ...A death case should be very somber. There are no winners. It is no joking matter; it is a grave proceeding. I think [lawyers] should have to be certified as a prosecutor. One of the conditions ought to be that you spend one

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week in a death row cell. A week on death row would feel like years. I think that would be a sobering fact for [potential prosecutors] to consider.

When did you begin to question your role in Glenn Ford's case?

AMS: After I left the district attorney's office in 1989. A number of death penalty cases were being questioned at the time including Glenn Ford's. ...My issue was with the procedure. I did not think Glenn Ford had a fair trial. [H]e did not have adequate representation. That is a real transgression that I see in capital cases. He had two attorneys who were good in their field, who tried their best, but they had never tried a jury case, much less a capital case. If you stop right there—Glenn Ford did not have a chance. The cards were stacked against him.

Do you think an adversarial system serves justice?

AMS: The prosecutor's duty is more than putting on the evidence. He is there to ensure that justice is done as an officer of the court. That [duty] has been completely washed away by our culture. If you are a prosecutor and you lose a case, you will review the case with your superior. If you say "I think justice was done, so nobody lost the case," that is not going to get you very far with your superior. You have that clash. Those are forces that make change very difficult. ...I don't think revenge is justice. Government-sanctioned revenge is not justice.

What is the future of the death penalty?

AMS: In the future—not in my lifetime—I think the death penalty will be declared unconstitutional. I listened to one of the senators debating the death penalty in Nebraska. (Nebraska's Legislature repealed the death penalty on May 27, 2015 after overriding the

governor's veto a third time). His argument was that the death penalty is too random. If you execute a person once every 20 years, it does not have a deterrent effect. If the U.S. Supreme Court would accept a writ application on 8th Amendment grounds and re-visit what it said in *Furman v. Georgia*: We have the same problem today. *Furman* addressed the randomness, the arbitrariness, [and] the lack of standards.¹ Although supposedly there are "objective" standards, they are really not objective. It is still arbitrary because it depends upon the D.A. [For example,] there is defendant A and defendant B. ...The D.A. gets one of them to testify against the other, so that one gets a life sentence while the other gets death. That is random.

Is there a way to establish an objective standard and approach?

AMS: The bottom line is we humans are not capable of creating a system that is fair. By our very nature we are not God. We are all fallible. The ego gets in everybody's way. We are not capable of devising a fair system. We are not God. That is not a religious statement. It is an acknowledgement of the limitation of being human. Sister Helen Prejean makes a statement early on in her *Dead Man Walking* that has never left me. She asks: "How can we expect the government to come up with an equitable system when that same government can't even properly fix potholes?" How do you answer that?

ENDNOTES

- 1 *Furman v. Georgia* was a U.S. Supreme Court decision in 1972 that required a degree of consistency in the application of the death penalty. It led to a *de facto* moratorium on capital punishment which ended with the case of *Gregg v. Georgia* in 1976 approving the use of capital punishment pursuant to laws amended to comply with *Furman*.



A.M. "Marty" Stroud III



Catholic Social Thought and the Environment

Contemporary environmental consciousness in the Church received a strong kickstart with St. Pope John Paul's 1990 World Day of Peace message *Peace with God the Creator, Peace with All of Creation* and in a number of statements from conferences of bishops in recent years.¹ While there had been some environmental activism from the Catholic Rural Life Conference and other grassroots Catholic groups and church leaders at the local, national, and international levels prior to 1990, it intensified in the years following.

A strong component of that consciousness focused on stewardship of the environment, drawing inspiration from scripture. John Paul argued that through the *Genesis* work mandate "to subdue the earth," humans image their Creator and share God's creative action, a font of deep spirituality.² With the Lord, we become co-creators of the earth and the ways humans have developed society over time, what we might call "creation given" and "creation enhanced."³

In his 2008 World Day of Peace message *The Human Family, A Community of Peace*, Pope Benedict XVI introduced the concept of a "covenant between human beings and the environment" [7]⁴. In his 2009 encyclical *Caritas in Veritate*, the Holy Father developed a threefold responsibility tied to the environment: "a responsibility towards the poor, towards future generations, and towards humanity as a whole" [48]. Pope Benedict, in framing the environmental concerns in terms of covenant, took a giant step from just the "stewardship model"—which positions humans over-against the rest of creation—to a more adequate approach that takes seriously the solidarity that extends beyond the human species to other forms of life and their habitats.⁵

The pope decried hoarding of energy and stockpiling that gives rise to exploitation and frequent conflicts between and within nations. He urged solidarity between developing countries and those highly industrialized, lowering energy consumption, increased research into alternative forms of energy, and redistribution [49]. He emphasized responsible stewardship, duties to future generations, international joint action, changing lifestyles, transparency and accountability for using up shared resources, and strengthening the "covenant between human beings and the environment" [50-51]. He also underscored how many of the world's resources are "squandered by wars!"

In *Laudato Si'*, the first encyclical focused primarily on the environment,⁶ Pope Francis ties environmental

concern closely to concern for the poor. He presents the scientific consensus on climate change and other environmental threats and discusses how environmental degradation affects human life and society. For Francis, the poor usually pay the highest price for environmental destruction, whether it is desolation of natural habitats, erosion of farmlands, coastal flooding, or the location of polluting factories. Working from the biblical account of creation, Francis teaches that the universe reveals the divine and that, woven together in God's love for all creatures, we human persons are united as sisters and brothers on a wonderful pilgrimage.

The pope argues that we are consuming the planet's limited resources, enthralled with a technocratic paradigm that promises unlimited growth and is based on a belief in an infinite supply of the earth's goods. As such, we have no interest in more balanced levels of production, better distribution of wealth, concern for the environment, or the rights of future generations. Maximizing profits drives these patterns. What we need is an integral ecology that, understanding that the social and environmental crises are one, demands an integrated approach to combating poverty, restoring dignity to the excluded, and protecting nature.

ENDNOTES

- 1 See, for example, U.S. Catholic Bishops, *Renewing the Earth: An Invitation to Reflection and Action on Environment in Light of Catholic Social Teaching* (November 14, 1991) and *Global Climate Change: A Plea for Dialogue, Prudence, the Common Good* (June 15, 2001); The Dominican Episcopal Conference, *Pastoral Letter on the Relationship of Human Beings to Nature* (January 21, 1987); The Catholic Bishops of the Philippines, *What Is Happening to Our Beautiful Land?* (January 29, 1988); Indiana Catholic Conference, *Care for the Earth* (February, 2000); Catholic Bishops of the Boston Province, *And God Saw That It Was Good* (October 4, 2000); and Twelve U.S. and Canadian Bishops, *The Columbia River Watershed: Caring for Creation and the Common Good* (February 22, 2001).
- 2 Saint Pope John Paul II, *Laborem Exercens*, 1981, nos. 3, 24-27.
- 3 *Ibid.*, no. 4.
- 4 Numbers in brackets refer to paragraph numbers in the document referenced.
- 5 Thomas Massaro, S.J., "The Future of Catholic Social Teaching," in *Blueprint for Social Justice*, Volume LIV, No. 5, January 2001, pp. 1-7, at 6.
- 6 Pope Francis, *Laudato Si'*, May 24, 2015.



CANARIES IN THE COAL MINE

The deep connection between environment destruction and poverty By FRED KAMMER, S.J.

One of the most significant insights of Pope Francis in his May 24 encyclical on the environment—*Laudato Si'*—is the direct connection between environmental degradation and the plight of people who are poor. A critical look at this connection can help to unlock the message of the entire document.¹

The concern of Francis for the poor and the environment is not new to papal teaching nor Catholic social concern. In his 2009 encyclical *Caritas in Veritate*, Pope Benedict XVI developed the theme of a “covenant between human beings and the environment” [7]² in which he delineated a threefold responsibility that is part of the human relationship to the environment: “a responsibility towards the poor, towards future generations, and towards humanity as a whole” [48].

Before Benedict, St. Pope John Paul II had made the connection in his 1990 World Day of Peace message *Peace with God the Creator, Peace with All of Creation*. National and regional conferences of

bishops also made the same connection in the years that followed. Of course, teaching at the hierarchical level was deeply influenced by the work of local Catholics and other people of good will on issues of environment preservation and “environmental justice” (often referring to the connection of environmental degradation and its profound impact especially on poor and minority communities).

Canaries in the Coal Mine

While Pope Francis does not use this image in *Laudato Si'*, one of the first ways to understand the connections between environmental destruction and the poor can be likened to the practice of coal miners keeping a canary in the mine as a “first warning” of poisonous air. Francis emphasizes the “intimate relationship between the poor and the fragility of the planet...” [16]. As Francis develops this connection, he notes:

Many of the poor live in areas

particularly affected by the phenomena related to warming, and their means of subsistence are largely dependent on natural reserves and ecosystemic services such as agriculture, fishing, and forestry. They have no other financial activities or resources which can enable them to adapt to climate change or to face natural disasters, and their access to social services and protection is very limited.

Among the results, the pope continued, is “a tragic rise in the number of migrants seeking to flee from the growing poverty caused by environmental degradation” [25].

Another example he gives is how the world’s growing shortage of potable water is now reflected in “water poverty,” especially affecting Africa “where large sectors of the population have no access to safe drinking water or experience droughts which impede agricultural production” [28]. Humans who are poor then could be

likened to those biological species that become extinct from environmental change and destruction.

Linked Environments

Pope Francis further underscores the systemic linkage between environmental destruction and the human destruction born of the breakdown in our sense of the common good:

The human environment and the natural environment deteriorate together; we cannot combat environmental degradation unless we attend to causes related to human and social degradation. [48]

The common sign of the breakdown of both environments is the plight of those who are poor, the billions of people who are affected by environmental damage and who suffer from the failures of our social and economic systems as well. This prompts Francis to urge that “a true ecological approach always becomes a social approach; it must integrate questions of justice in debates on the environment, so as to hear both the cry of the earth and the cry of the poor” [49]. Why is this?

The Causes

Pope Francis lays the responsibility on multiple but interrelated causes. One is excess consumption “where a minority believes that it has the right to consume in a way which can never be universalized, since the planet could not even contain the waste products of such consumption” and where “a third of all food produced is discarded” [50]. Such consumption, he continues, has created an “ecological debt” between the global north and south resulting from commercial imbalances and “the disproportionate use of natural resources by certain countries over long periods of time” [51].

Another cause is the absence of a sense of the universal duty to the common good arising out of our common humanity and what our Catholic tradition calls the “universal destination of goods,” which subordinates extreme private property claims to the well-being of society at large, especially the poor [93]. This mindset is strongly reflected in an economic sector

driven by the maximization of profits frequently isolated from other considerations—such as care for the environment and care for the least among us. For Pope Francis, “The mindset which leaves no room for sincere concern for the environment is the same mindset which lacks concern for the inclusion of the most vulnerable members of society” [196].

A related cause is an excessively anthropocentric view of the human person that “continues to stand in the way of shared understanding and of any effort to strengthen social bonds” [116]. This view of humankind fosters an attitude of domination of the environment and of other people that undermines responsibility for the earth and for the human community. Both the environment and other people become “objects” to be used by individuals for their own advantage and not “subjects” calling upon us for respect and care. As Francis notes, “If the present ecological crisis is one small sign of the ethical, cultural and spiritual crisis of modernity, we cannot presume to heal our

relationship with nature and the environment without healing all fundamental human relationships” [119].

So what is humanity to do? Pope Francis calls for international, national, and local dialogue on environmental policy, including transparent decision-making that serves human fulfillment and not just economic interests. Religions and science must work together for the common good. Essential too are changes in lifestyle and new attitudes born of individual conversion; community networks to solve the complex problems; and a spirituality that is marked by moderation, mutual care, and a passionate concern to protect our natural world and to build a better world for all, especially those who are poor and vulnerable.

ENDNOTES

- 1 Pope Francis, *Laudato Si'*, May 24, 2015.
- 2 Numbers in brackets refer to the paragraph numbers in the respective documents.





Reforming Immigration Detention

Catholic Bishops and Migration Experts Propose Transforming the System

By SUE WEISHAR, PH.D.



Detention has become the “pillar” of the U.S. immigration enforcement paradigm. The main purpose of immigrant detention is to ensure that immigrants in removal proceedings appear at their immigration hearings, and, if they lack legal standing to remain in the U.S., that their deportation/removal be effected.¹ The vast majority of detention facilities resemble prisons, even though their occupants are not there to serve time for committing a crime. Like prisons, detention centers are secure facilities with hardened perimeters, often situated in remote locations. In their layouts, staffing plans, and population management strategies, most detention facilities mirror the traditional correctional objectives of command and control.²

When immigrants, especially those who have lived and worked for many years in the U.S. and have committed no criminal offenses, find themselves or their loved ones detained by Immigration and Customs Enforcement (ICE), their reaction is often an overwhelming sense of shock, humiliation, and disbelief. When Tanya Olivar’s husband of ten years, an undocumented immigrant from Honduras, was suddenly detained after a scheduled check-in with immigration officials in 2009, she was so ashamed that she told her children that their father had gone on a trip. After she finally decided to bring her 3-year-old son and 8-year-old daughter to visit their father in a detention center in north Louisiana before he was deported, watching their son trying to touch his father through the thick Plexiglas window that separated them was almost more than she could bear.³

Omar Hassan, who fled political persecution in Somalia in 1996, was detained after a 16-year legal struggle to obtain asylum, even though ICE officials knew they could not deport him back to

Somalia. After he was picked up at work, Hassan was taken to an immigration holding center where he was strip-searched and given a green prison uniform to wear. He told me during an interview in 2011: “I had never even been in a police station in my life. I am scared. They don’t tell you what they are doing. You feel like you are at the mercy of someone else’s hand. It makes you feel like someone from another planet. There was no humanity in it. There was no nothing in it.”⁴

An important report by the Migration and Refugees Services of the United States Conference of Catholic Bishops (USCCB) and the Center for Migration Studies (CMS) presents powerful arguments for dismantling our nation’s vast, inhumane, and costly detention system and building an immigration system that ensures due process protections, honors human dignity, and minimizes the use of detention. Instead of using detention as a central immigration “management” tool, *Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System* proposes a continuum of supervised release/community support programs based on risk of flight and danger to community in order to ensure court appearances. The report notes that supervised or conditional releases have long been a mainstay of the criminal justice system and that there are already tested, effective, and humane ways to accomplish the government’s goals that immigrants in removal proceedings appear in court and, if required, cooperate in their removal to their home countries.

An alternative to detention (ATD) program for asylum-seekers I administered at Catholic Charities Archdiocese of New Orleans (CCANO) from 1999-2003 provides hard evidence that a community-based program with supportive case management



services can ensure that immigrants participate in their legal proceedings without the concomitant loss of human dignity and access to legal counsel that are almost inevitable when immigrants are detained.

Most of the 39 asylum-seekers served by the CCANO ATD program arrived in New Orleans as stowaways on commercial vessels that docked in New Orleans and had no family or friends in the U.S. The program’s case manager ensured that the asylum-seekers had a safe place to live and worked with employers familiar with CCANO’s refugee program to find them jobs. Most importantly, she linked the asylum-seekers with pro bono attorneys willing to represent them in their asylum proceedings. One asylum-seeker from Sri Lanka left the U.S. for Canada—his original destination—which made for an appearance rate of 97.5 percent for program participants at their immigration hearings. This was accomplished at a cost of \$3.90 a day,⁵ a mere fraction of what the government pays to detain asylum-seekers, which currently averages \$160 a day.⁶

The cost of immigrant detention has skyrocketed along with the explosion in the numbers of immigrants detained and deported. In 2014 ICE detained on average 30,597 immigrants a day in 202 facilities across the country,⁷ almost five times the average daily detained population of 6,785 in 1994.⁸ Twenty-nine percent of the 2014 average daily population of detained immigrants were held in 39 facilities in four Gulf South states⁹ (see Figure 1). The report notes that the number of immigrants annually detained by ICE has increased more than 500 percent since 1994—totaling 440,557 persons in 2013.¹⁰ In 2014 the combined funding for Customs and Border Patrol and ICE equaled \$18 billion,¹¹ dwarfing the budgets of all other federal law enforcement agencies combined.

Average Daily Population of Detained Immigrants by Gulf South State in FY 2014¹²

Gulf South State	Number of Immigration Detention Facilities	Average Daily Population
Alabama	3	338
Florida	9	1,537
Louisiana	4	1,658
Mississippi	0	0
Texas	23	8,766
Gulf South TOTAL	39	12,299
U.S. TOTAL	202	30,597

Unlocking Human Dignity recommends that a first step in dismantling the immigrant detention system and replacing it with a flexible, humane, and less costly continuum of release programs is for Congress to commission a comprehensive study on how a truly civil immigration detention system can be created. Other recommendations include the following: end the use of detention as a purported deterrence to refugee flows; greatly expand supervised release and community ATD programs and locate their infrastructure and oversight in a government agency other than DHS, curtail and rigorously monitor the role of for-profit prisons in detention, eliminate mandatory detention except in extreme

cases involving national security or egregious criminal activity, and end the detention of families with children.¹³

The growing realization that hyper-incarceration undermines American democracy and perpetuates racial hierarchy in the United States is fueling one of the most important social justice movements of our time—criminal justice reform. The system of hyper-detention of immigrants, driven by many of the same fears and racial bias as prison hyper-incarceration, must also be dismantled. *Unlocking Human Dignity* argues clearly and persuasively how this can be done and why Catholics should care. Anyone committed to immigrant justice and the common good should read this timely and invaluable report.

ENDNOTES

- 1 *Unlocking Human Dignity: A Plan to Transform the U.S. Immigrant Detention System*, Migration and Refugee Services/United States Conference of Catholic Bishops and The Center for Migration Studies, 2015, pp. 7 - 8, at www.usccb.org/about/migration-and-refugee-services/upload/unlocking-human-dignity.pdf
- 2 Ibid, pp. 14 -15.
- 3 Interview with Tanya Olivar, March 26, 2011, author’s files.
- 4 Sue Weishar, “A More Humane System: Community-Based Alternatives to Immigration Detention (Part II),” *JustSouth Quarterly*, Spring 2011.
- 5 Ibid.
- 6 *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies*, National Immigration Forum, August 2013, at <https://immigrationforum.org/wp-content/uploads/2014/10/Math-of-Immigration-Detention-August-2013-FINAL.pdf>
- 7 From U.S. Department of Homeland Security, Immigration and Customs Enforcement, “DMCP Authorized Facilities,” Oct. 6, 2013.
- 8 Ibid.
- 9 DMCP Authorized Facilities, op.cit.
- 10 *Unlocking Human Dignity*, op. cit., p. 7.
- 11 Ibid. p. 22.
- 12 DMCP Authorized Facilities, op. cit.
- 13 *Unlocking Human Dignity*, op.cit, pp. 29-33.

JSRI Staff Changes

We extend our thanks and best wishes to **Alex Mikulich, Ph.D.**, as he moves to the Loyola Office of Mission and Ministry as Assistant Director.

We welcome **Jeanie Donovan, M.P.A., M.P.H.**, as our new Economic Policy Specialist.

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