Deflecting the Political in the Visual Images of Execution and the Death Penalty Debate

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For more than a decade now, English studies has been increasingly engaged by questions surrounding visual communication—its functions, its limits, its place in our classrooms, in our scholarship, and in our daily lives. Today, in the wake of the World Trade Center attack, the bombing of Afghanistan, the war on Iraq, the spectacle of Abu Ghraib, and other images of torture, humiliation, and death, these questions have taken on a singular urgency. They are not simply matters for the scholar in her den, thumbing through archival photos. They are matters of power and politics.

It is a common precept that the visual carries the potential (or the threat) to uncover both the harsh realities of human suffering and the political machinations responsible for that suffering. The Vietnam War demonstrated that precept so clearly with its photographs and film coverage of summary execution, napalmed children, and dying soldiers that subsequent war policy has severely limited press access and suppressed images like recent photos of flag-draped American coffins. Perhaps because the American public has so little in the way of visual evidence of the Iraq war, images that have emerged in such documentaries as Jehane Noujaim's *Control Room* or Michael Moore's *Fahrenheit 9/11* become even more compelling in their promise to uncover a politics unavailable in official press conferences or vague war reporting. Clearly, the attempt to suppress the visual, as in any censorship of the press, is an attempt to limit debate. As well, the attempt to publish suppressed images—on the Internet, in film or print documentary, in the alternative press—is an attempt to reopen debate. It is an attempt to resee the issue at hand. That is the power of the image.

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At the same time, however, the visual can deflect—even undercut—the political, and it is that seeming contradiction we take up in what follows. Michael Bernard-Donals, in writing of Holocaust photographs, posits a dual role for images of atrocity. Old photographs of horror—executions, torture, imprisonment, starvation—are the kinds of images, he suggests, that construct a collective history at the same time that they manage a kind of shared forgetting. In such visual records, the reader simultaneously sees and does not see the event represented (381–82). Historic photographs, in particular, propose to the viewer an act already completed, a history already understood, a politics no longer up for question. Although Bernard-Donals is writing specifically of historic photographs of Holocaust victims and events, we find his argument useful for what we propose as we examine the visual and its relationship to the ongoing public debate over the death penalty. In the case of images of execution, for example, the visual performs a markedly tricky function. Is it evidence that the guilty party has been brought to justice, or is it morbid curiosity at best, voyeurism at its most base? Moreover, how do images like the ones we will be examining play into larger politics—in this case, the debate over death-penalty legislation or the right of the citizenry to take matters into its own hands? How do varying modes of visual communication—TV news coverage, Hollywood film, posters, flyers, photo collections—work to construct collective history and deflect political realities at the same time?

Take the case of live coverage of executions as an example of a particularly problematic form of visual communication. As the date of his execution drew near, Timothy McVeigh let it be known that he would be willing to allow his death to be televised. What is it, we might ask, that McVeigh hoped the public would see? The federal government publicly recoiled at any prospect of tawdry widespread live coverage, and yet at the same time Attorney General John Ashcroft quickly made provisions for closed-circuit transmission of the execution to hundreds of victims' family members in Oklahoma City. Such arrangements are, however, an exception. As a rule today, very few people in this country actually see the executions carried out in their names. At least since the passage in the 1880s of what came in some places to be known as the "midnight assassination laws,"[1] the death penalty has been what anti-death-penalty activist Helen Prejean, CSJ, calls "the secret thing that is done in the middle of the night" ("Angel"). In fact, today's death penalty proponents are much opposed to widespread, live coverage of executions. They argue that to televise an execution like McVeigh's is to give a criminal the hero status many believe is being sought. Some—columnist George Will, for example—argue that to make executions visible to the public would have a "very bad coarsening" effect on the country (qtd. in Prejean, *Dead Man* 215). By contrast, many opponents of capital punishment (Prejean is among these) encourage such coverage, working on the assumption that, should Americans witness execution, most would object to its horror.

Ours is not a history of death-penalty legislation, though we will necessarily draw on that history for this work. We raise, instead, a question at the heart of visual communication: What is the relationship, we ask, between images of execution—both state-sponsored and vigilante justice, their production and circulation, in particular—and the larger public debates of which they are an inevitable part? Much of what we argue could, for example, be said of images currently emerging from the Middle East, many of which, as we earlier noted, were initially suppressed in the U.S. mainstream media but circulated quickly on the Internet and in the international press, and all of which are an integral part of the ongoing debate over this country's involvement in global politics. Our concern has to do with the way an image—an instance of visual communication—can become crucial to and, at the same time, obscure the politics of the debate within which it is created.

We begin by reinvoking one of the commonplaces of contemporary visual theory—that no image can be understood free of its semiotic, cultural, historical, political, or material context. Moreover, the act of viewing is inevitably unstable. The same image that serves as bold witness or furious protest in one context becomes seamy voyeurism in another, thus flattening out the cultural and political complexities that surrounded the image to begin with. In other words, certain uses of the image will deflect rather than illuminate the politics of an event. In the case of visual representations of execution and the death penalty, for example, the viewer's attention can easily be redirected from crucial issues of race and class to the less-threatening/less-"political" binary of whether or not the condemned is guilty or innocent. Thus, more fundamental questions—such as whether the state has the right to take a life or why poor men of color are overrepresented on death row—become rhetorically unavailable in the public reception of the image, the representation.

For our discussion, then, we have in mind two kinds of visual representations that might, on the surface, seem very different but which exemplify, we argue, the process of deflecting political issues circulating around the death penalty. The first—photographs of lynchings, many of which are collected in James Allen, Hilton Als, and Leon Litwack's *Without Sanctuary*—provide a visual record of mob justice and the public's responses to it. The second—Hollywood films such as Robert Wise's story of the 1955 execution of Barbara Graham (*I Want to Live!*) and Tim Robbins's 1995 dramatization of Helen Prejean's journey to death row in *Dead Man Walking*—we have chosen because they are examples of more extended popular narratives of executions carried out by the legal justice system. As such, they allow us to consider what happens to images of execution when placed, as they often are, within the framework and conventions of popular visual narrative.

Two terms are useful here for depicting the shifts we see taking place in the visuals we will examine. The first—*witness*—we use to refer to the act of seeing as

evidence or proof that an event has occurred. To "witness" is, we suggest, an inherently political act that brings an event to the public for scrutiny. Courts call witnesses to recount what they have seen. Lawyers use witnesses as proof (contested though it often is) that an event did or did not occur. Activists engage in "witness" when they travel to war-torn areas to monitor elections or record human-rights violations. The second term—*voyeurism*—familiar to many readers through psychoanalysis and film theory, denotes seeing or watching that evokes gratification or pleasure of some sort. In contrast to public witness, *voyeurism* suggests a shift in power from the person or event being seen to the observer of that event. Both terms will come into play as we examine these images and their role in eclipsing the politics of execution.

The Photographic Message—Witness to Voyeur

It has been nearly forty years since Roland Barthes reminded us that the image is first and always polysemous. As such, images of execution function differently depending on where and how they appear, on who reads them and for what purpose, on who sends them in what context, and on the political and social climate in which they are produced. In the context of the death penalty debate, the same images that work as witness for some will serve the purposes of outright voyeurism for others. The press photograph is especially useful here because press photographs make a claim of reliability and realism. Yet, as Barthes reminds us, "The press photograph is a message" formed by "a source of emission, a channel of transmission, and a point of reception" (15).

Take, for example, a press photograph taken in January 1928 and published in the *New York Daily News*, an early tabloid that billed itself "New York's Picture Newspaper." In order to get the photograph, reporter Thomas Howard strapped a camera to his ankle and, according to his account, lifted his pant leg to snap the picture just at the moment of Ruth Snyder's death in the electric chair. In 1928 an anti-death penalty movement was certainly active, but only one year before, the federal government had executed Nicola Sacco and Bartolomeo Vanzetti. High-profile executions were, in other words, not new. What was new and controversial about this execution was that the condemned was a woman. Furthermore, what was new and continues to be controversial about the photo is that it purportedly recorded the actual moment of Ruth Snyder's death—as close to "live coverage" as the print media could come.

The appropriateness of executing women has, from the start, been contested in this country and elsewhere. Karla Faye Tucker's 1998 execution in Texas, for example, made her the first woman executed in that state since the Civil War even though Texas continues to lead the nation in numbers and rates of executions each year (see, for example, Bedau 21). In the entire span of the twentieth century, while

Photo available in print version only.

Figure 1. Journalist Thomas Howard's 1928 photo of Ruth Snyder as it appeared in New York's *Daily News*.

over seven thousand prisoners were executed in this country, only forty of those were women (Bedau 3).

What, then, is the relationship between this press photograph—this piece of visual communication—and the larger political debate that swirls around it? As an image that bore witness to the actual moment of death in the electric chair, this photograph surely carried the potential to reinvigorate the death penalty debate at the time, especially for those who objected to executing women.[2] In addition, as a daring and clever bit of photojournalism, the shot took on a certain currency in the press world, drawing attention away from the death depicted in the photo and directing it to the spy-kid cleverness of Thomas Howard. By the time it made it to the *Daily News*—running two days straight with only the word *DEAD!* above it in all caps and followed by an exclamation point—the photograph had become the stuff of voyeurism and would remain one of the most famous tabloid shots of all time.[3] Set in the context of the sensationalism that is the *Daily News*, the possibility of the photograph performing an essential role in the death penalty debate was significantly diminished as its primary function became one of satisfying morbid curiosity and, of course, selling newspapers. The photograph of Ruth Snyder is, then, a particularly gruesome instance of an image that ultimately works to deflect the politics within which it was made.

Other visual genres are polysemous in much the same way, and in much the same way they threaten to flatten or even erase all question of public debate. For example, the drawing shown on this 1911 postcard of a man masked, bound, and "Waiting" (as the card tells us) in the electric chair might have been made to illustrate a then-modern method of execution. Auburn State Prison was the site of the first electric chair execution in this country and had much at stake in convincing the public that electrocution was quick and humane—or at least quicker and more humane than hanging (Moran). The sender's note that "this is the Electric Chair that they use here instead of hanging people" indicates that this new method is of some interest to the public and that Auburn Prison might have some interest in an image of a man posed in suit and tie, looking somewhat respectable, and simply "waiting" for his sentence to be carried out.

Photo available in print version only.

Figure 2. Message reads: "This is the Electric Chair that they use in the Prison here instead of hanging people [. . .] I hope you had a good time at Brighton. I have been gardening all this week." Tom Phillips Archive.

However, once the image was placed on postcard stock and sent as a greeting to a friend in East Molesy, England, it served (as Foucault might say) to help normalize the uses of electrocution—and, moreover, the death penalty—as an unquestioned element of the modern penal system in the U.S. Certainly, the postcard functioned as a kind of advertisement in which Auburn State Prison is depicted as a twentieth-century, up-to-date facility. As such, it serves to make any potential debate on the subject unnecessary. (At least as the text of the postcard message suggests, the drawing didn't seem to distract the sender very long from his gardening.)

What is so evident, even in these two images, is a tension between the act of *witnessing* and the potential for *voyeurism*. The press photo of Ruth Snyder, for example, served initially as an act of witness to execution. However, uses of the photo over time have allowed voyeurism to override other ways of seeing and thus attenuated the photo's usefulness as witness toward political or critical ends.

"The Barbecue We Had Last Night"

Prejean argues that execution is essentially a process of removing a person from the human family, declaring that person no longer one of us—not worthy of human compassion. Once we believe that someone is not human, it then becomes possible to terminate a life ("Angel"). The visual manifestation of that process of dehumanization is particularly apparent in photographs of lynching—in both their production and their circulation.

Some readers may well argue that the subject of lynching is not remotely related to the death penalty, yet we hope to show here a crucial connection. Among some anti–death penalty activists, capital punishment has come to be known as "legal lynching" primarily because of what have been called the "deadly numbers" of the "race and geography of execution" (Jackson, Jackson, and Shapiro 65). In their book-length study of the death penalty in America today, Jesse Jackson, Sr., Jesse Jackson, Jr., and Bruce Shapiro note that

> [i]t probably comes as no surprise to learn that murders committed in certain regions of our country are much more likely to result in the death penalty than are murders in other regions. The southern states [. . .], home to roughly 26 percent of our nation's population, carried out 83 percent of our nation's executions between 1976 and 1995. (70)

Moreover, write these authors,

> [t]here is a special relationship between the death penalty and African-Americans, a relationship going back to antebellum days, when the gallows was a principle means of punishing slaves and on through the worst years of Jim Crow. Of 455 executions for rape in the United States between 1935 and 1967, 398—87 percent—were of African-Americans. (72)

In other words, though it is certainly the case that lynching is illegal while capital punishment is a part of the penal justice system in most states and in the federal government, lynching (and especially lynching of African American men) has played a significant role in response to real or perceived crime in this country from its beginnings, especially in the West during Westward expansion and in the South following the Civil War and into at least the civil-rights era. These were often (though not always) mob-justice actions undertaken by what some officials would call the "best citizens of the South" (Litwack 17–18). They were rarely prosecuted, suggesting that they had at least informal approval even within local legal systems. At the end of the nineteenth century, it was even possible for Southern politicians to be classified as pro- or anti-lynching candidates for office, suggesting that lynching was understood by some to be a perfectly reasonable response to certain criminal charges.[4] In the post–Civil War South, where African Americans were now a part of the free citizenry and no longer under the rule of slaveholders, lynching was overwhelmingly a racial issue. Images of these executions, circulated during the height of lynching in the South, can thus be read as important visual documents in the context of our discussion.

While portraits of the accused have remained commonplace in crime coverage throughout history, visual representation of the actual execution is today, as we have noted, deemed out of bounds or inappropriate, suggesting perhaps that we consider such images shameful or voyeuristic. Yet public hangings were popular in this country well into the last century. Even lynchings were openly attended and photographed and the photographs made into postcards that were sent to families and friends or displayed on mantelpieces or tucked away as memorabilia. Many of these are collected in Allen, Als, and Litwack's *Without Sanctuary*, based on an exhibit that began touring the United States in 2000. In an opening essay from that collection, Litwack writes, "The use of the camera to memorialize lynchings testified to their openness and to the self-righteousness that animated the participants" (10–11).

According to Litwack, lynchings claimed an average of 139 lives each year in the 1890s, 75 percent of them African American. Some estimate that between 1882 and 1968, 4,742 African Americans were victims of lynch mobs (12). When former Georgia governor William J. Northen canvassed the state in 1912, he reported, "I was amazed to find scores and hundreds of men who believed the Negro to be a brute, without responsibility to God, and his slaughter nothing more than the killing of a dog" (13). In her biography of Ida B. Wells, Patricia A. Schechter writes,

> Traveling rapidly through the Associated Press wire service, newspaper stories justified lynching as punishment for black men's sexual attacks on white women. Incantatory headlines like "More Rapes, More Lynchings" made this association a cultural reflex. Circulated in cheap postcards, doggerel verse, and other lynching "souvenirs" produced at public executions, the resulting "folk pornography of the South" was serious business [. . .]. Not only were thousands of people killed by lynch mobs between 1880 and 1930, but lynching implicated the moral and legal foundations of the nation at its deepest levels. In the 1890's, the black body became American culture's primary object of fears about social disruption and disintegration. (82–84)

In what appears to be a reiteration of Foucault's spectacle of the scaffold, Litwack reports that "the execution became public theater, a participatory ritual of torture and death, a voyeuristic spectacle prolonged as long as possible [. . .] for the benefit of the crowd" (13). Excursion trains often brought spectators to the scene. Employers released workers to watch the show. The high point of this show was the photograph.

To illustrate the importance of *seeing* during these events, Litwack chronicles the following account of the 1915 lynching of Thomas Brooks in Fayette County, Tennessee:

> Hundreds of kodaks clicked all morning at the scene of the lynching. People in automobiles and carriages came from miles around to view the corpse dangling from the end of a rope [. . .]. Picture card photographers installed a portable printing plant at the bridge and reaped a harvest in selling postcards showing a photograph of the lynched Negro. (11)

Many of the photographs from the Allen, Als, and Litwack collection are what were called "real photo" postcards. Participants in both legal and illegal hangings posed openly for them, some—like Joe in the card shown here—even marking their own faces in the mob for friends and family to see. Photographs were taken on location and produced quickly on postcard stock. The photographer might line clients up and pose them with the corpse, or a photographic series of the crowd and execution would be taken and then reproduced later in bulk for sale after the "event." It was, then, through their production, distribution, and circulation that these photographs and others like them became a part of tacit public acceptance, if not approval, of mob justice for certain kinds of people—primarily African

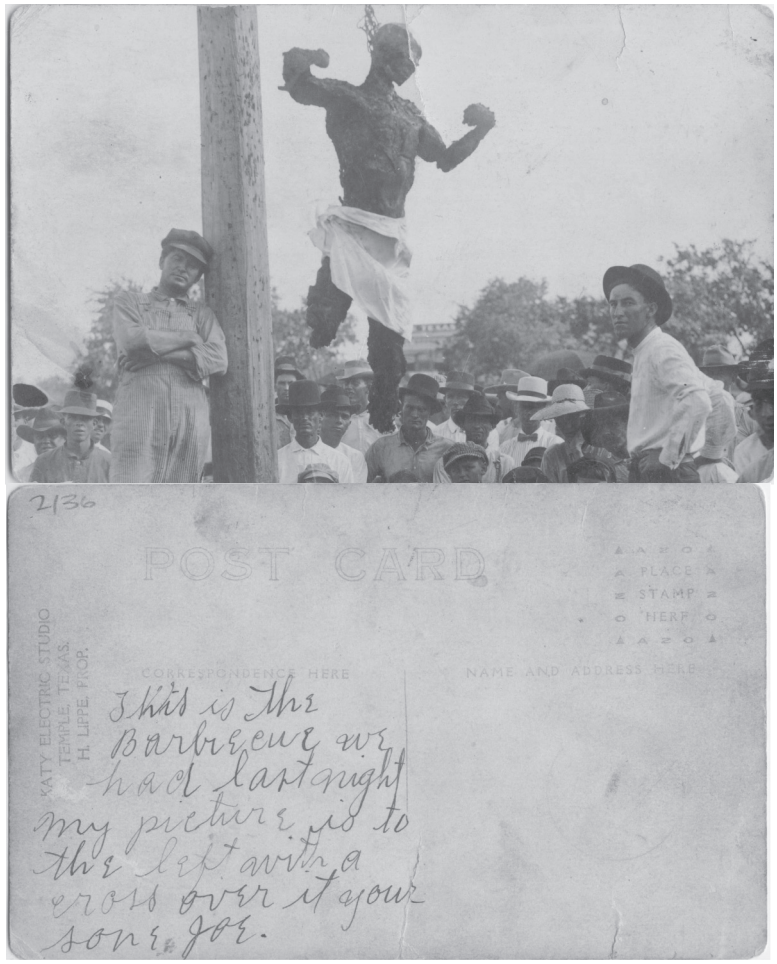

Figure 3. The message reads, "This is the Barbecue we had last night. My picture is to the left with a cross over it. Your son, Joe." Courtesy of the Allen-Littlefield Collection.

Americans—accused of certain kinds of crimes (particularly accusations of rape, assault, and murder) whether the case was proven or not. Quite certainly without benefit of a trial, none of these cases was actually proven in a court of law.[5] The civil justice system rarely addressed these mob murders, although local authorities were sometimes moved to argue that one or another lynching was not done by criminals since some of "our best citizens" were in the crowd. Allen, Als, and Litwack argue, "This was not the outburst of crazed men or uncontrolled barbarians but the triumph of a belief system that defined one people as less than another" (34). In the same way, then, that the film *The Birth of a Nation* depicted the Klansmen as heroes,

mainstream news reports and photographs of these lynchings portrayed the perpetrators as upstanding citizens.

Yet even such images, whose meanings seem so circumscribed, demonstrate the instability and polysemous nature of visual representation. That these images did not always function in the way their producers might have hoped they would is clear from this 1908 lithographed postcard depicting the lynching of four black activists in Kentucky.

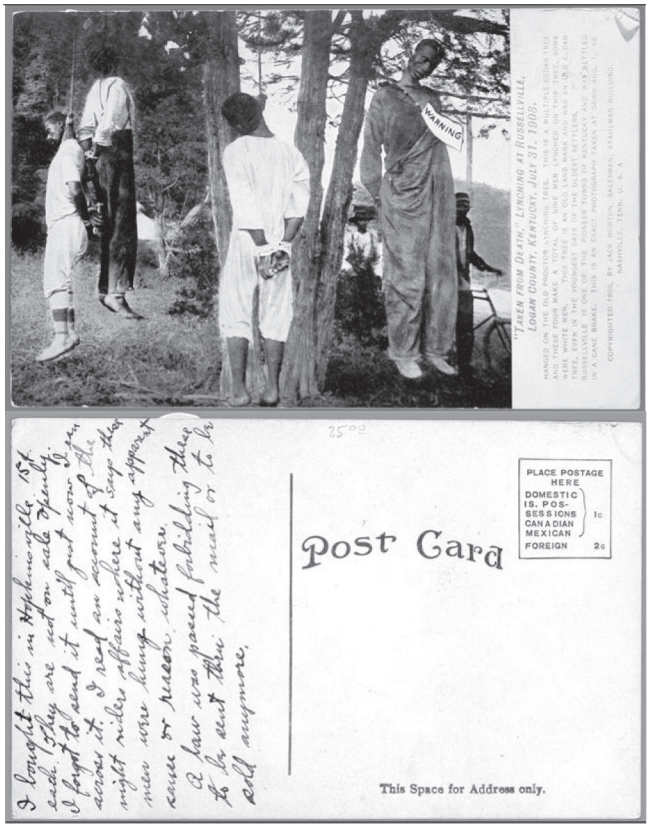

Figure 4. The message reads, "I bought this in Hopkinsville, 15 cents each. They are not on sale openly. I forgot to send it until just now I ran across it. I read an account of the night riders affairs where it says these men were hung without any apparent cause or reason, whatever. A law was passed forbidding these to be sent thru the mail or to be sold anymore." Courtesy of the Allen-Littlefield Collection.

Virgil Jones, Robert Jones, Thomas Jones, and Joseph Riley, photographed here, were lynched on July 31, 1908, in Russellville, Kentucky. On the neck of one of the men hangs a superimposed drawing of a sign that reads, "Warning."[6] According to Allen, Als, and Litwack, this photograph went through a number of manifestations during which the place of the lynching was moved from Kentucky to, in one case, Georgia, and the four men were accused—in print on one card—of "assaulting a

white woman." Allen, Als, and Litwack write that the actual lynching was related to labor unrest and activism. The four men were arrested during a lodge meeting and then lynched when a mob took them from the jail. The actual "warning" sign on one read, "Let this be a warning to you niggers to let white people alone or you will go the same way" (Allen, Als, and Litwack 194–95). Significantly, the observers in the background are African American men, perhaps posed there to emphasize the warning. The handwritten note on the back of this card, however, indicates that not everyone was convinced by the official story. The writer is obviously troubled by what the photo depicts and, very clearly, dismisses what is printed on the card as flat-out fiction. This particular card is an excellent example of how witnessing and voyeurism play against each other as the user subverts the original intent of the image. In an early effort to stem some of the criticism that cards like this one had begun to evoke toward southerners, Kentucky passed laws outlawing the sale and distribution of lynching images (Allen, Als, and Litwack 195). The lynchings themselves did not slow down. It was the open publication of *images* of these lynchings that was seen as problematic.

Of course, even in the middle of this period, the same photographs were used not only as sensational report or callous greeting but also to openly protest the actions depicted. Black newspapers sometimes reprinted them as evidence of the brutality of American society. A 1935 NAACP flyer depicts the brutal death of Rubin Stacy with young white girls dressed in their Sunday best posing next to the body and smiling into the camera (see Dray, photo plates). And even much later, during the civil rights movement of the 1950s and 1960s, some of these same images appeared on posters as proof of what racism in this country, in its most severe form, really looks like. It is not clear whether or not these particular posters had the effect activists hoped they would. What is clear, however, is that an image used to illustrate a news story has a very different meaning than one printed on a postcard or the same image on a protest flyer. As African American film scholar Jacquie Jones writes of one such photograph, the image—its effect and meaning—changes with time and place and purpose. The photograph Jones describes seems to be the often reprinted image of the August 7, 1930, lynching of Thomas Shipp and Abraham Smith in Marion, Indiana. Laurence Beitler, the photographer, reportedly printed thousands of copies of the photograph at fifty cents each in the ten days following the lynching (Allen, Als, and Litwack 176):

> I can't say that I remember exactly the day I saw the photograph, or even the book I saw it in. All I remember precisely is the image, a man strung to a tree, limp and yet not dead-looking, dressed in the clothes Christ wore in his last earthly moments. And, then, below, the white men who surrounded the spectacle in the spectacle [. . .].
>
> Something about it was so matter-of-fact. [. . .] (Jones 153)

> In each context, the message seemed to be different, the faces in the crowd changed: at times, they were laughing; at others, they took on demonic proportions. At a reluctantly segregated high school, the photograph was inflicted on us by a white teacher, like a subliminal lashing. At a black college, it was trotted out, like a Nazi war crime. In William Greaves' documentary on the life of the African American journalist and activist Ida B. Wells, *Passion for Justice*, it was an illustration of the immediacy and hazard of Wells's anti-lynching crusade. But in each case, it devastated, because it made concrete in one moment the brutal history, the living legacy of human bondage and racial tyranny that Americans, both black and white, would prefer to forget. (156–57)

Like one genre of early crime photograph—the slain prisoner put on display for the press—these lynching photographs functioned very neatly not only to demonstrate that justice had been served but also to dismiss all question of innocence or even right to a trial. Such photographs—and there are many of them—pose the corpse, bullet-ridden and quite clearly dead, in city morgues, on table tops, sometimes slung across saddles, often surrounded by those who claim the bragging rights for this particular trophy. One aim of these photographs had to be to demonstrate the consequence of uncivil action and make visible the power of those in charge (self-appointed or not) of retribution.

Moreover, the body on display in this way is also a body unrevered. It is the proof that the "dangerous animal" has been successfully hunted and slain. Recent press photographs of Saddam Hussein's sons hunted down and killed by American troops suggest that this genre of crime photograph may well have its natural extension in today's press photographs of "manhunts" for those labeled war criminals. Certainly, the publication and distribution of those gruesome photographs was meant to demonstrate—*to stand as witness to*—these deaths. They would then be used as evidence in the Western press, at least, that this particular "danger" had been eliminated. Such images render any question of a trial or even of a death penalty entirely moot.

One of the questions that began this investigation for the two of us has been to wonder how such images could ever have come into vogue in the first place. Even in a culture of racism and violence, how could such photographs have been so casually made, sold, and sent through the mail? How could men and women pose smiling beside the brutalized body of a human being? How could they bring their children to watch the show? Prejean offers one answer to that question. Another, we believe, is that the images themselves were meant to argue guilt and thus the appropriateness of punishment. If "some of our best citizens" do not mind having their photographs taken at the site of such horror, then, these images suggest, how can there be a question of innocence?

Execution Hollywood Style

Those lynching photographs—their production, circulation, and display— promoted a certain brutal fiction, a claim that justice had been served and that good citizens were there to witness to and verify its appropriateness. The postcards were most predominant in the 1920s and 1930s, when a "turn-of-the-century resurgence in the death penalty roughly coincided with the great wave of lynchings of African-Americans throughout the South—'unofficial' executions running parallel to those sanctioned by courts" (Jackson, Jackson, and Shapiro 17). Since at least the 1950s, the country has moved back and forth in its enthusiasm for state-sanctioned execution.

Indeed, fluctuations in death penalty legislation throughout the twentieth century suggest both ambivalence toward capital punishment and public pressure to "do something" during times of fear or stress. For example, Kansas, which currently has a death penalty, abolished it in 1907 during the Progressive Era only to reinstate it in 1993. Massachusetts, which currently has no death penalty, was the site of the still-controversial 1927 executions of Nicola Sacco and Bartolomeo Vanzetti. In the first decade of the twentieth century, an abolition movement led to the repeal of many death penalty statutes, but by the 1930s U.S. executions had reached a peak of 167 a year. By the sixties, in response to public pressure, executions declined until in 1972 (at the height of this country's involvement in Vietnam), the U.S. Supreme Court ruled in Furman *vs*. Georgia that the death penalty did constitute "cruel and unusual punishment" because it could be and was imposed arbitrarily. It wasn't until 1977, after a second Supreme Court ruling, that executions again resumed—starting with Gary Gilmore's death in Utah by firing squad.

In the 1980s the Supreme Court barred the execution of the insane but ruled later that same decade (1986) that it was all right to execute the mentally retarded. In 1994 President Clinton signed a crime bill that listed dozens of federal crimes that would be subject to the death penalty, and yet in 1999, Governor George H. Ryan of Illinois—a pro–death penalty politician—imposed a moratorium on executions in his state. In May 2002, Maryland followed suit with a moratorium saying that the death penalty was appropriate for some crimes but that, as it has been carried out thus far, it is racially biased. Then, in July of that year, the U.S. Supreme Court ruled it unconstitutional to execute the mentally retarded. That same court ruled that judges alone could not sentence the accused to death, thus throwing dozens of sentences up for reassessment. Finally, in January 2003, only three days before he was to step down from office, Illinois's Governor Ryan commuted the sentences of all 167 Illinois death-row inmates.

Clearly, then, ours is a nation conflicted over capital punishment (Wilgoren). This conflict is especially clear in popular fiction-film representations of the death

penalty, which have steadily increased in number and visibility in recent years. In "Death Row, Aisle Seat," film scholar Austin Sarat observes, "Whatever their cinematic quality, films about capital punishment—from the James Cagney and Pat O'Brien *Angels with Dirty Faces* (1938) and *I Want to Live!* (1958) to the listless *Last Dance* (1996) and Clint Eastwood's forgettable *True Crime* (1999)—provide most of us with our only way of seeing what happens when the state kills" (3). We might extend Sarat's point by noting that, although there are many films in which the death penalty plays some role, films that take us beyond the moment of sentencing (and through the execution itself) are relatively rare. These films range from the simplistic *Witness to the Execution* (dir. Tommy Lee Wallace, 1994), *The Chamber* (dir. James Foley, 1996) and *The Green Mile* (dir. Frank Darabont, 1999), to much more complex and thoughtful films such as Robert Wise's *I Want to Live!* (1958) and Tim Robbins's *Dead Man Walking* (1995). Despite their significant differences, however, most of these films ultimately center not on the death penalty itself but on the guilt or innocence of the accused. It is only with *Dead Man Walking* that the death penalty is itself held up for any serious scrutiny. In other words, though it certainly has the power to do more, the cinematic visual has been especially effective at deflecting the politics of death penalty debates.

In what seems to mirror playwright Arthur Miller's remark that we might as well put electric chairs in sports stadiums and sell tickets to the event (Bedau 315), the broadly melodramatic *Witness to the Execution* projects a time in America when pay-per-view television contracts with the state to broadcast executions live and charge viewers who want to tune in. The premise itself is not as outrageous as it might seem. In 1991, San Francisco public television station KQED lost a bid to televise the execution of Robert Alton Harris, who was put to death in the gas chamber in 1992 (Bedau vi). *Witness to the Execution*, broadcast only two years after that controversy, might have served to illuminate (however dimly) that debate. To create something of a plot, however, the film audience must be made to doubt the guilt of the condemned man, and by the time the film makes it to the actual execution, viewers understand that the accused is not only guilty but a manipulating, dangerous womanizer. The camera remains on his face as he is strapped in and electrocuted.

Gruesome as that visual moment sounds, there is little reason for even the most squeamish among film audiences to turn away. Visually, this execution is a nonevent. Death by electric chair, it seems, does not even muss one's hair. The visual statement in this film is simple: Yes. It is a bad thing to make television hype from an execution (the set resembles that of *Who Wants to be a Millionaire?*). Still, the fact that the condemned was guilty and that the death itself *appears* quick and clean serves to erase all political questions surrounding the death penalty itself. As a film that comments on either pay-per-view television or the death penalty, this one fails miserably, but it is worth mentioning here primarily because its characters voice all of the

arguments for and against witnessing executions that have typically been made (and that were made in 1991 over Harris's execution). What the film achieves, however, is to somehow turn a serious political issue into a love story gone wrong.

James Foley's *The Chamber* and Frank Darabont's *The Green Mile*, though both are better crafted films than the Wallace vehicle, fall into much the same trap. The question at the center of these films is a question of the guilt or innocence of the accused—the worth of the man about to be put to death. In both films the accused is innocent of the crime that has put him on death row. And, in both films, the man is put to death anyway. Even so, the question of the death penalty itself remains untouched even here. *The Chamber* does capture a horrid reality of gas chamber executions—keeping Gene Hackman's character on-camera as he convulses, foams at the mouth, bleeds, and finally dies. Yet, most of the narrative is spent convincing viewers that, even though this man is not guilty for the crime he will die for, he is guilty of another murder, just as cold and cruel as any he has been accused of. So, the system might be wrong on this conviction, but they got a murderer, anyway. In effect, the plot echoes two common myths: a death row prisoner must be guilty of something or he wouldn't have been arrested in the first place; and the system works. Ironically and perhaps accidentally, *The Chamber* reenacts one reality of death-penalty politics. The murder this character did not commit but does die for is the accidental murder of a white child. The murder he gets away with is the brutal beating to death of an African American man. Apparently, no one had even noticed that the murdered African American man was missing.

Frank Darabont's film adaptation of Stephen King's *The Green Mile* is, on the surface, heavily rhetorical in the sense that it seems to be making an argument about the death penalty itself. Indeed, the film contains one of the most graphic, disturbing portrayals of death by electric chair anywhere. In it we, like the on-screen witnesses, watch as a sabotaged electrocution causes parts of the victim's body first to burn and then to explode. Yet, the film is tinged with voyeurism as the camera lingers on the private glee of the sadistic saboteur standing among on-screen witnesses. Whatever politics such images might reveal are buried under stereotypes of good guys and bad guys and, significantly, the figure of the unjustly accused. In *The Green Mile* this figure takes the form of John Coffey, a gentle black giant with miraculous powers (played by Michael Clarke Duncan), whose cause here is taken up by the enlightened white head guard, Paul Edgecomb (played by Tom Hanks). The film's real drama centers on Coffey and whether or not Edgecomb will succeed in preventing his innocent life from being taken. The film's "surprise" ending, in which Coffey not only forgives his accusers but offers himself up to be executed despite his innocence, undermines any death penalty rhetoric at work here, except perhaps to reestablish the rightness of a system it initially seems to question.

Although preceding them by more than thirty-five years, *I Want to Live!* is in

many ways a more complex and nuanced examination of a state-sponsored execution than any of these films. The film stars Susan Hayward, who won an Oscar for best actress for her role as real-life convicted murderer Barbara Graham. The filmmakers, most notably producer Walter Wanger, described *I Want to Live!* not only as a "true story" but as an anti–death penalty film. Writing about Wanger's decision to attack the death penalty, Dennis Bingham notes that *I Want to Live!* distinguishes itself from other "social problem" films by taking on the law itself as a problem to be interrogated. That is a hard sell in Hollywood at any time. At a time when the film industry itself was a target of McCarthyite paranoia, a "social problem" film was likely even more difficult (though not at all impossible) to pull off. This particular story was, however, already a compelling one for the tabloid press, and, as such, it fit nicely into available Hollywood genres.

Graham's sensational trial focused on her questionable morality, on her checkered past, on her conduct in the courtroom, and on the very issue of executing a woman. In fact, when she was executed in 1955, Graham was only the third woman executed in California in the twentieth century. Before the century's end, just one other woman (Elizabeth Ann Duncan, in 1962) would die in the gas chamber in that state (Clark). The film shows the media stripping Graham of any "respectable" femininity and undermining her role as a mother—much of this taken straight from popular press accounts that took to calling her "Bloody Babs." The filmmakers' use of high-contrast lighting and Gerry Mulligan's edgy jazz score connect Wise's movie to film noir portrayals of duplicitous, conniving women who supposedly pose a threat to ideals of decency, to the family, and especially to the men who "make the mistake" of trusting them. The video jacket reads, "Prostitute, party girl, decoy, perjurer, bad check passer, petty criminal. Barbara Graham (Susan Hayward) is all this and more, but is she a murderer?"

That question is more than rhetorical. The film attempts to take this tabloid story and open it up for reexamination. As Bingham notes, "[T]he male producer, director, and screenwriters tell this woman's story not by investigating her but by identifying with her, showing how her personal deceits and misrepresentations were matched and exploited by the larger deceptions of the law and the mass-audience misrepresentations of the print and electronic media" (4). Nonetheless, while demonstrating the "complex humanity of a woman whom the press caricatured in her own time" (Bingham 4), *I Want to Live!* if not confirming Graham's innocence, at the very least reveals the sympathetic aspects of her character and leaves open the question of her guilt. The film thereby ultimately puts aside the most fundamental and most difficult questions about the death penalty—those concerning its ethics and morality. Bingham observes, "The filmmakers' desire to make an anti-death-penalty film cannot quite be reconciled with narrative conventions concerning sympathetic characters. Sidestepped is the question of whether convicted killers, who

the filmmakers would probably assume are usually guilty, should be put to death" (22).

I Want to Live! appeared on screen only three years after Graham's execution and the whirlwind of publicity that surrounded her case. It is important to Wanger's anti–death penalty position that the film actually spends its final forty minutes away from the smoky jazz clubs and back streets where Graham got herself into trouble and in the stark and slow-moving world of her prison cell. As she walks toward the gas chamber, she is twice given a stay—literally at death's door—and sent back to her cell, cursing and exhausted. The death scene itself, while tame by today's standards, remains gruesome and prolonged. The camera does not look away but watches with a crowd of men leaning forward and peering into the windows of the gas chamber. As an audience, we are thus implicated in this execution and its voyeuristic dimensions.

As he was completing *I Want to Live!* Wanger corresponded with then California Attorney General Edmund G. (Pat) Brown, whom Wanger describes as "enthusiastic" about his plans to make Barbara Graham's story into a film. He promises Brown that the film will take a position against capital punishment but not be "a preachment." It is surely not by accident that *I Want to Live!* came out the year Brown, an anti–death penalty candidate, was elected governor of the state (Bingham 20). Still, as Bingham notes, the film itself never seems to question the justice of executing the two men convicted with Graham. In many ways, the film not only falls into Hollywood narrative convention but also asks a question that commonly occurs on both sides of the debate. Whether or not people accept the legitimacy of the death penalty, they will often ask, as many did of Timothy McVeigh, "But what about *this* person? Does *this* person deserve the death penalty?" The way Hollywood answers the question is, typically, to portray an innocent man or woman on death row.

Tim Robbins's 1995 feature film *Dead Man Walking* is based on Sister Helen Prejean's 1993 book of the same name. Part memoir, part spiritual autobiography, and part position statement, Prejean's story traces her awakening to the horrors of state-sanctioned killing as she attends the electrocutions of the men she has come to know as, to use a phrase from the film, "worth more than their worst act" ("Angel"). The power of this or any other film lies not only in its story or in the subject matter, but to a large extent in its discourse, that is, in the visual techniques it employs. In *Dead Man Walking* what Robbins accomplishes visually is to convey the experience of both the victims and the murderer, and, as in other films on this subject, Robbins privileges the expressive function of narrative. What distinguishes his use of visual expression, however, is that it results not in an oversimplification of the narrative but in a more complex context for this story, one that asks the audience to see all of the characters involved—including the murderer—as human beings.

From early scenes and throughout, Robbins links the killer—Matthew Poncelet—with Sister Helen, establishing visually a connection that cannot be broken by the circumstances of each character's life. The first combines home-movie footage of a young Helen taking her final vows with voiceover from Poncelet's letters to her describing his life in Angola prison. The technique of using Poncelet's voice to anchor these images suggests the intertwining of two stories, two very different lives, two institutions. This juxtaposition continues as shots of Prejean approaching the jail are intercut with black-and-white images of the murder as she imagines it. Here, Robbins uses jump cuts, fragmented shots of the victims' bodies and repeated shots of a knife plunging down to impress upon us the violence and horror of the crime as Prejean imagines it.

In later scenes we witness the evolution of Prejean's and Poncelet's relationship, culminating at the end of the film in his confession to the murder of Walter Delacroix and the rape of Hope Percy. In Robbins's film, the visual carries much of the dramatic weight of this evolution. For example, in the scene in which Prejean and Poncelet first meet, Robbins emphasizes their emotional and spiritual distance by foregrounding the wire-mesh barrier that separates them and partially obscures Poncelet's face. Later, as Poncelet begins to trust and depend on Prejean, Robbins depicts their closeness by allowing us to see both their faces in the same shot—one layered beside the other in the reflection of the Plexiglas. Speaking of this technique in an interview, Robbins explains that he decided to use that reflection shot to establish the Plexiglas surface as a barrier that still physically divides but no longer separates them. As well, in these later shots, Prejean and Poncelet now make frequent eye contact, reinforcing that connection.[7]

What Robbins accomplishes visually parallels Prejean's accomplishment in the book that inspired this film. Both manage to create a space where the apparently opposing experiences of victim and murderer meet—in the pain felt by families who suffer the loss of their children. Both identify institutions as the site of a systematic dehumanization and devaluing of life, and both place their trust in committed individuals as the only hope for intervening in this process. Yet the film, very clearly, is not persuasive to the same extent or in the same way as the book. Although some have argued that the film condemns the death penalty, we would argue that its expressive function fulfills Robbins's own stated goal of taking the audience to what he terms "moral thresholds." Rather than engaging in advocacy, then, the film asks the viewer to remain receptive and entertain often conflicting positions.

The visual narrative structure of the film is emblematic of its rhetorical position. Rather than telling the story chronologically, beginning with Poncelet's participation in the murder of two teenagers—as does *Dead Man Walking* the opera or *Angel on Death Row*, the PBS documentary, for example—Robbins saves these graphic

images for the film's final moments, intercutting them with shots of Poncelet's execution. Significantly, Robbins changes the method of execution, from the electric chair, as in Prejean's memoir, to lethal injection. When a prisoner is placed in the electric chair, a mask or hood is put over the head, and though it is possible for the prisoner to have "last words" before the hood is lowered, the long take of Poncelet recalling the murders while his own execution is taking place could not easily occur on screen. Cinematically, then, the choice of lethal injection is crucial if viewers are to see the mixture of fear and anger on Poncelet's face and thus experience this scene as the death of a thinking, feeling human being. Ultimately, we would argue, this choice codes the scene as witness rather than voyeurism.

Not only here but throughout *Dead Man Walking* Robbins depicts Poncelet as quite human—someone who is part of a family, with a mother and brothers who depend on him, with vulnerabilities as well as pride. Nonetheless, while reminding us that he is human, Robbins does not shy away from the question of Poncelet's guilt. By juxtaposing Poncelet's death with his criminal act at precisely the point where audience members might have the most sympathy for him, Robbins opens the issue of the death penalty to further complexity and ambiguity, Thus, the film gives us not simplistic closure or definitive answers but a pointed re-posing of Prejean's question, "Do we deserve to kill them?"

Not surprisingly, this narrative strategy does not automatically guarantee or alter audience response. Setting the two moments side by side is at once potentially revealing of the inhumanity of killing under any circumstances, and perhaps the supreme justification for the execution of what some see as an "animal" like Matthew Poncelet. Prejean herself noted this ambiguity: "People bring themselves to this film. One of the sisters in Cincinnati was saying that they took the class, a high school class to go see 'Dead Man Walking' and afterwards the kids wrote essays and one kid wrote, before I went to see 'Dead Man Walking,' I believed in the death penalty. After I saw 'Dead Man Walking' I believed in the death penalty more"[8] ("Excerpt" par. 10).

Prejean's anecdote seems a fitting conclusion to our discussion of images of execution and the death penalty debate. This student's response to what some have criticized as an anti–death penalty film can hardly be said to fit a predictable template, yet clearly the student was affected by the representation on screen. The anecdote reminds us that images are always political, whether or not they are intended as such, and whether or not they evoke any predicted response. The anecdote further points to the radical repercussions of the polysemous nature of images. To say that the meaning of a visual representation is not fixed is not to say, however, that it is arbitrary. How or to what ends images are political is a matter of ongoing struggle: of race and class and gender, of power and difference.

Looking beyond the Image

It is then the case that, in a particular society at a specific moment in history, within a particular representational context, all possible meanings are not equally available or accessible. Throughout this history of visual representations of execution, many of the hardest questions raised by death penalty debates are hidden or elided. For example, Prejean argues that "[t]he deepest moral question about the death penalty is not what to do about innocent people. We know we shouldn't be executing the innocent. What about somebody we know is really guilty? Can we execute them?" ("And Then"). As Sarat suggests of Hollywood films, this question remains unaddressed:

> [F]ar from encouraging us to think seriously about our country's commitment to capital punishment, they [death-penalty films] push, I fear, in the opposite direction. Visually and narratively, they warn viewers to leave aside the issue of whether the death penalty makes us a safer, saner society—or a meaner, less humane one—and focus instead on the narrower, more dramatically appealing question of whether a particular inmate deserves to die. We are invited to imagine ourselves as jurors or judges or a governor being presented at the last minute with some new evidence, asked to decide whether the John Coffeys or Matthew Poncelets of death row should be spared—not as legislators deciding whether or not to abolish state killing.

Thus popular film, like so much popular debate on this issue, avoids this central question perhaps because it is a question that does not play well visually and perhaps because it is a question that cannot be answered easily.

The lynching-photograph postcards of the past two centuries are now reproduced for us in pictorial history books that have much the look of what we call coffee-table books. Today, they represent a time/a system seemingly gone by. It might be easy, then, to read them as a problem now solved. We conclude, however, with just a small sample of how very complicated this problem is to solve. From 1999 to October 2002 there were no executions in Georgia. The Georgia courts were arguing over whether or not the electric chair is cruel and unusual punishment and thus unconstitutional. By the time Southern Center for Human Rights lawyer and anti-death-penalty activist Stephen Bright had argued the case and convinced the courts to rule against the constitutionality of death by electric chair, Georgia had prepared itself to resume executions via lethal injection. Between October and December of that year, four men were executed—two of them of at least questionable mental health, all poor.

Poverty and race are most often the determining factors in who is given the death penalty and who is not. Yet Hollywood images of execution rarely put a person of color at risk unless that person is innocent. Lynching photos do put race at the center but, in the context of a museum retrospective, they seem to be more

about themselves or about perpetrators of the past than about capital punishment, yet another example of what Bernard-Donals calls "forgetful memory." They function to shape public memory and treat events as if readers already understand them and so there is little need to interrogate their meaning or their place in contemporary politics. In that way the visual begins to deflect rather than illuminate political realities, and, yet, we do know that this need not be the case.

We conclude here with the importance of working against the grain. Although doing so is very difficult in Hollywood film, we see writers and directors like Robert Wise and Tim Robbins able to work both within and beyond that system. As well, it might seem unlikely that horrific images such as those collected in *Without Sanctuary* can do anything but serve as a voice for political awareness, and yet it is only in Allen's insistence on telling the story of each photograph—naming names and places and detailing situations—that a reader can even hope for a fuller reality beyond the historic image. If it has been our aim to indicate how popular debates and politics can become flattened in the visual, an equally important part of our argument is that this is not inevitable. The challenge that remains before us lies in the fact that the image is neither self-evident nor doomed to obscure the political. It is that challenge we take up as teachers, scholars, and citizens.[9]

Notes

1. In the 1880s several states passed laws calling for night-time execution to discourage the carnival atmosphere that tended to develop around hangings. In his history of capital punishment in Minnesota, John Bessler writes that this law became known as the "midnight assassination law" and "accelerated a nationwide trend toward in-private, after-dark executions" (xvi).

2. As of this writing, the photograph is available at the site Rotten.com <http://awful.rotten.com/chair/snyder.html>. Rotten.com is a site devoted to grisly photos and videos, including graphic pictures of failed suicide attempts and more. See also www.theelectricchair.com, which includes a series of commentaries from users responding to the Snyder photo. These responses indicate that the photo continues, at best, to play to curiosity-seekers.

3. In fact, a poster-sized reproduction of the *Daily News* front page appears in the 2003 film *The Life of David Gale*. It is pinned on the wall among several other famous executions, including a botched Florida execution by electric chair, photographs of which continue to appear in anti-death-penalty Web sites.

4. See Dray 10–11 on anti-lynching Georgia Governor William Gates Atkinson and pro-lynching Governor Allen Candler.

5. Much of what Barry Scheck and his colleagues from the Innocence Project have found today echoes the "swift justice" mentality of these lynchings. The Innocence Project has found as many as seventy-nine prisoners who have since been cleared of the crimes for which they were incarcerated. In many cases—especially involving black men accused of attacking white women—evidence that would have exonerated the accused was "lost," ignored, or simply not sought. As of March 2002, one hundred death row prisoners have been found innocent and released (not all through the Innocence Project, but through other investigative and legal initiatives as well).

6. The text on the front of the card reads, "'Taken from death,' lynching at Russellville, Logan County, Kentucky. July 31, 1908. Hanged on the old proctor lynching tree. This is a multiple cedar tree

and these four make a total of nine men lynched on this tree, some were white men. This tree is an old land mark and was an old cedar tree, even in the youngest days of the oldest settlers. Russellville is one of the pioneer towns and was settled in a cane brake. This is an exact photograph taken at dawn August 1, 08. Copyrighted 1908, by Jack Morton, salesman, Stahlman, Stahlman building, Nashville Tenn, U.S.A."

7. Robbins's comments on the making of *Dead Man Walking* can be found at http://www.pbs.org/wgbh/pages/frontline/angel/walking/timrobbins.html.

8. The Prejean story has migrated to several other visual genres and technologies including film, television documentary, Web sites, and opera. What unites all of these texts is that they are also part of that ongoing debate in the United States over the fairness, appropriateness, ethics—even economics—of the death penalty. Just as she is at the center of these texts, Prejean is at the center of these real and very consequential arguments, and her story is used on both sides of this debate to support what often are entrenched positions.

9. Many friends and colleagues too numerous to name here contributed to this work. We hope they know how grateful we are for their time and good counsel. We thank Charlotta Norby of the Southern Center for Human Rights and Mary Ruth Weir of New Hope House, who helped us with the many details and frustrations of death penalty legislation.

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