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## Interview: Paul Long

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# Michigan defeats proposal to bring back the death penalty

*On April 21, the Michigan House of Representatives voted against House Joint Resolution H, sponsored by Rep. Larry Julian, which would have amended the state constitution to allow the death penalty for the crime of first degree murder, and to submit the proposal to a vote of the people at the next general election. In 1846, Michigan became the first English-speaking jurisdiction in the world to statutorily abolish the death penalty. Despite a number of attempts to reinstate the death penalty over the years, the statutory prohibition against the death penalty was not overturned legislatively, and the prohibition was subsequently written into the 1963 state constitution.*

*The Michigan Catholic Conference was a strong voice against the death penalty during hearings on House Joint Resolution H. Paul Long, Vice President of Public Policy for the Michigan Catholic Conference, testified against the bill. Excerpts from that testimony are included. He was interviewed on May 14 by Marianna Wertz.*

**EIR:** The death penalty bill was defeated in Michigan, thanks in part to your work. We've also been in touch with Rep. Ed Vaughn, who also fought the bill. Do you think it's going to come back again in some other guise, or do you think the people of Michigan truly reject the death penalty?

**Long:** Until the legislature is given a clear idea that the people don't support this, the legislature may try to bring it back. I think, with the clear knowledge that the House is well short of the two-thirds needed to pass this, that it's dead for this session of our legislature. For future sessions, this may be an issue that may come back again and again, depending on the proponents of the issue, and depending on whether they have a political agenda to achieve by trying to push this forward or not.

**EIR:** Do you think there's any connection between the fact that Michigan is home to Dr. Jack Kevorkian, and it now has the death penalty on the agenda?

**Long:** I see a connection in the fact that these measures were defeated [Michigan voters rejected the attempt to legalize assisted suicide in November 1998], because there's a strong belief in the State of Michigan, traditionally and historically,

that supports a position of life. Michigan was the first state in the English-speaking world to prohibit the death penalty.

**EIR:** Do you know anything about the circumstances of that?

**Long:** There was an execution in the city of Detroit sometime in the early 1830s. It was the last time that anyone was ever executed in the state. There was a mob mentality. It was done in the public square in the city of Detroit, and people were so overwhelmed with disgust at this event having taken place, that, immediately, the death penalty was stopped. Then, formally in law, in the year 1846, we formally banned it in statute. Then, in 1963, it was prohibited in our state constitution.

**EIR:** You may know that there is a movement afoot, small but growing, for a moratorium on use of the death penalty nationally.

**Long:** Yes.

**EIR:** The American Bar Association has called for it. Massachusetts voted against the death penalty last month, by a larger margin than they had a year before. Now, Michigan. Do you see the prospect, particularly with the Pope's recent statements on this and his emphatic endorsement of such a ban, that this will take hold?

**Long:** I would hope so. It would be my hope that public policymakers would look at this as not being an appropriate stance that government be in the business of killing people, and that they begin to turn away from this as a way of trying to solve the issues of crime and violence in our society.

**EIR:** I'm calling from the state of Virginia, where we've just had six executions in two months' time, and where Richmond Bishop Walter Sullivan denounced this as an "execution state." Our Governor, Jim Gilmore, for the first time in his term, gave a life sentence rather than executing the seventh expected executee two days ago, on the grounds that the man to be executed did not even know that he was going to be executed, he is so mentally retarded. This is not that unusual on death rows in America today, to have the mentally retarded. Do you have any experience with this, or thoughts on what should be done?

**Long:** I don't have any experience with it. I think it points to one of the saddest points of the death penalty, and what it means for people and the damage that it can do to people. I think that situation is one of the saddest situations that there possibly could be, in relation to this being in our justice system.

**EIR:** In this man's case, and I think this goes to an important question: His prosecuting attorney said that he never would have asked for the death penalty had there been the alternative of life without possibility of parole, which was not possible under Virginia law at that time. Are there alternative laws that could be developed to deal with this kind of situation?

**Long:** Absolutely. I think Michigan points the way. We have life imprisonment without parole for first degree murder, whereas with most of these states, that's where they call for the death penalty. If you talk to people who are in prison, certainly that's probably a more gruesome fate for someone, to spend the rest of their life in prison, knowing that they are never going to leave, than at some point that they might be executed and relieved of that burden.

We hear so many stories, from time to time. There was an inmate that was in prison for life in some other state, who contacted Kevorkian and wanted his help. Obviously, they're looking at death as a good alternative to spending their life in prison.

From the standpoint of justice, life imprisonment without parole would be a very good alternative to ensuring that there is a punishment paid for a crime.

On the other hand, too, I would say that with regard to life imprisonment without parole, in polling that's been done on the issue of the death penalty, both here in Michigan and nationally, in general the majority of people say that they support the death penalty. Yet, when they give them the alternative of life imprisonment without parole, support either drops to 50% exactly, or below 50%. So, even in the general public's mind, it is a strong alternative, and it is a strong punishment.

**EIR:** That poll also holds in Virginia, which is the second in the nation in the number of people that it executes. But it has been regularly ignored by the legislature.

One last question: You said in your testimony that "public policy should be developed with the common good as the central theme and undergirded in the belief in the sanctity of human life and the inherent dignity of the human person." Would you like to expand on that?

**Long:** Public policy should be based on the premise that it promotes and protects life. When we look at the government getting into the business of killing people, whether it be through the death penalty or through assisted suicide, or for that matter, with regard to the area of abortion, the government really, when it sanctions the killing of people, it cheapens life for everyone, not just for those whose lives the government is taking.

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## Documentation

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*This testimony was presented by Paul A. Long, Vice President for Public Policy of the Michigan Catholic Conference, on House Joint Resolution H, before the Committee on Constitutional Law and Ethics, Michigan House of Representatives, on April 19.*

... The Michigan Catholic Conference is the public policy voice for the Catholic Church in our state. We thank you for the opportunity to offer our brief reflections on House Joint Resolution H.

Traditionally, the Catholic Conference has opposed efforts to restore the death penalty in Michigan. From our advocacy during the 1961 constitutional convention, to our opposition to various ballot initiatives, to our testimony before various legislative committees, our position has always been clear: On the issue of capital punishment, as with assisted suicide or abortion, the Church stands against the use of lethal means to solve social problems.

We acknowledge the need to protect society from violent crime. We do not challenge society's right to punish the serious and violent offender. But, to serve as an effective deterrent to crime, any punishment must be swift, sure, and even-handed. Capital punishment fails in all these categories.

By its very nature, a harmonious social order recognizes the role of law and its relation to rights, privileges, and responsibilities. Law comforts and it controls. It protects and it punishes. It edifies and it enriches. It limits and it liberates.

It should not kill. For a government with the power to kill, is a government with too much power.

As the report of the 1844 Select Committee on the Abolishment of Capital Punishment of the House and Senate stated:

"Imposition of the penalty is a 'usurped power of government'; since no man has the right to take his own life, he cannot delegate the power to take his life to the government."

The restoration of the death penalty, absent in our state since 1846, is a simplistic solution to complex problems. As was the case with assisted suicide, proponents of the death penalty outline the most gruesome and heinous acts and suggest that if we abandon our 153-year public policy and adopt legalized killing, we will put an end to such acts. Public policy, however, should not be developed in response to a specific anecdote, no matter how gruesome and heinous. Public policy should be developed with the common good as the central theme undergirded in the belief in the sanctity of human life and the inherent dignity of the human person.

It may be said that this resolution is limited in its scope and approach. But the fact of the matter is that Michigan's prohibition, the longest in the English-speaking world, would come to an end.

We urge this committee to oppose House Joint Resolution H, and all other proposals which would allow the death penalty in Michigan. Thank you.

## ABA seeks moratorium on death penalty use

On Feb. 3, 1997, the American Bar Association House of Delegates voted 280-119 to approve a call for a moratorium on executions in the United States until jurisdictions implement policies to ensure that death penalty cases are administered fairly, impartially, and in accordance with due process, to minimize the risk that innocent persons might be executed.

Since the ABA's action, several states, including Illinois and Nebraska, have introduced legislation calling for a moratorium. On May 20, Nebraska passed a two-year moratorium, while they consider the questions surrounding the death penalty. Moves to introduce the death penalty have been defeated this year in Massachusetts and Michigan.

The ABA had already opposed executions of mentally retarded persons and people who were 18 or younger when they committed their crimes. It has never taken a position for or against capital punishment in most cases, although it has long-standing policies supporting appointment of competent counsel; preserving, enhancing, and streamlining *habeas corpus* review; and eliminating discrimination in capital sentencing on the basis of the race of either the victim or the defendant.

The policy urges a halt in imposing death sentences until each jurisdiction across the country assures that people charged with capital crimes receive the due process protections that the ABA has been urging since 1979.

The following is the introduction to the report that accompanied the death penalty resolution:

### From the ABA report

"The American Bar Association has adopted numerous policies bearing on the manner in which the death penalty should be applied in jurisdictions where it exists. These policies were adopted in view of the ABA's extensive experience with the administration of the death penalty and in light of several ABA-sponsored studies. The policies concern: 1) competent counsel in capital cases; 2) proper processes for adjudicating claims in capital cases (including the availability of Federal *habeas corpus*); 3) racial discrimination in the administration of capital punishment; and 4) the execution of juveniles and mentally retarded persons.

"The time has now come for the ABA to take additional decisive action with regard to capital punishment. Not only have the ABA's existing policies generally not been implemented, but also, and more critically, the Federal and state

governments have been moving in a direction contrary to these policies. The most recent and most dramatic moves, both strongly opposed by the ABA, have come in the form of laws enacted by Congress in 1996. Federal courts already are construing one law to significantly curtail the availability of Federal *habeas corpus* to death row inmates, even when they have been convicted or sentenced to death as a result of serious, prejudicial constitutional violations. Another law completely withdraws Federal funding from the Post-Conviction Defender Organizations that have handled many post-conviction cases and that have mentored many other lawyers who have represented death row inmates in such proceedings.

"These two recently enacted laws, together with other Federal and state actions taken since the ABA adopted its policies on capital punishment, have resulted in a situation in which fundamental due process is now systematically lacking in capital cases. Accordingly, in order to effectuate its existing policies, the ABA should now call upon jurisdictions with capital punishment not to carry out the death penalty until these policies are implemented. Of course, individual lawyers differ in their views on the death penalty in principle and on its constitutionality. However, it should now be apparent to all of us in the profession that the administration of the death penalty has become so seriously flawed that capital punishment should not be implemented without adherence to the various applicable ABA policies."

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