

July 13, 2005

Dear Senator:

As Chairman of the Domestic Policy Committee of the United States Conference of Catholic Bishops, I am writing to convey our grave concerns regarding S. 1088, *The Streamlined Procedures Act of 2005*, when it is considered by the Judiciary Committee. The Committee is concerned because the proposed bill would dramatically diminish the federal courts' ability to consider habeas corpus petitions in death penalty cases, even in cases of actual innocence.

As you know, the bishops of the United States oppose the use of the death penalty in our country. Catholic teaching on capital punishment is clear: If non-lethal means are sufficient to defend human lives against an aggressor and to protect public order and the safety of persons, public authority should limit itself to such means, because they better correspond to the concrete conditions of the common good and are more in conformity with the dignity of the human person (*Catechism of the Catholic Church*).

Nothing illustrates the need for non-lethal punishment more than the disturbingly large number of death row inmates across our country who have been exonerated (119 since 1973), some within days or hours of being put to death. At a time when there should be more safeguards put in place to protect the innocent from wrongful conviction and to prevent lethal mistakes in death penalty cases, S. 1088 attempts to take away some of the safeguards already in place.

S. 1088 would severely limit the circumstances under which a death row inmate can obtain federal habeas corpus review of his or her conviction or sentence. For example, Section 9 of the bill would strip federal courts of jurisdiction to consider most claims challenging either a conviction or sentence of death in states that provide competent counsel to indigent prisoners in state post-conviction proceedings. The only exceptions would be for prisoners who advance claims based on new rules of constitutional law that the Supreme Court has made retroactive, and those who offer newly discovered evidence on the basis of which no reasonable fact finder could have convicted. Section 6 of the bill would deprive federal courts of jurisdiction to review most sentencing claims if a state court previously concluded the error was "harmless" or "not prejudicial."

Our Church fully believes that those who commit terrible violent crimes must be incarcerated, both as just punishment and in order to protect society. We stand in solidarity with victims and their loved ones. However, when it comes to matters of life and death, morality and common sense call for careful safeguards. Therefore, we urge you to oppose efforts to eliminate these safeguards. Thank you for your careful consideration of this important matter. Asking the Lord to bless you and always be with you, I am

Faithfully yours,



Most Reverend Nicholas DiMarzio  
Diocese of Brooklyn  
Chairman, Domestic Policy Committee  
United States Conference of Catholic Bishops