

The use of capital punishment has been a permanent fixture in society since the earliest civilizations and continues to be used as a form of punishment in countries today. It has been used for various crimes ranging from the desertion of soldiers during wartime to the more heinous crimes of serial killers. However, the mere fact that this brutal form of punishment and revenge has been the policy of many nations in the past does not subsequently warrant its implementation in today's society. The death penalty is morally and socially unethical, should be construed as cruel and unusual punishment since it is both discriminatory and arbitrary, has no proof of acting as a deterrent, and risks the atrocious and unacceptable injustice of executing innocent people. As long as capital punishment exists in our society it will continue to spark the injustice which it has failed to curb.

Capital punishment is immoral and unethical. It does not matter who does the killing because when a life is taken by another it is always wrong. By killing a human being the state lessens the value of life and actually contributes to the growing sentiment in today's society that certain individuals are worth more than others. When the value of life is lessened under certain circumstances such as the life of a murderer, what is stopping others from creating their own circumstances for the value of one's life such as race, class, religion, and economics. Immanuel Kant, a great philosopher of ethics, came up with the Categorical Imperative, which is a universal command or rule that states that society and individuals "must act in such a way that you can will that your actions become a universal law for all to follow" (Palmer 265). There must be some set of moral and ethical standards that even the government can not supersede, otherwise how can the state expect its citizens not to follow its own example.

Those who support the death penalty believe, or claim to believe, that capital punishment is morally and ethically acceptable. The bulk of their evidence comes from the Old Testament which actually recommends the use of capital punishment for a number of crimes. Others also quote the Sixth Commandment which, in the original Hebrew reads, "Thou Shall Not Commit Murder." However, these literal interpretations of selected passages from the Bible which are often quoted out of context corrupt the compassionate attitude of Judaism and Christianity, which clearly focuses on redemption and forgiveness, and urges humane and effective ways of dealing with crime and violence. Those who use the Bible to support the death penalty are by themselves since almost all religious groups

in the United States regard executions as immoral. They include, American Baptist Churches USA, American Jewish Congress, California Catholic Council, Christian reformed Church, Episcopal Church, Lutheran Church in America, Mennonite General Conference, National Council of Churches of Christ in the USA, Northern Ecumenical Council, Presbyterian Church (USA), Reformed Church of America, Southern California Ecumenical Council, Unitarian/Universalist Association, United Church of Christ, and the United Methodist Church (Death Penalty Focus).

Those that argue that the death penalty is ethical state that former great leaders and thinkers such as George Washington, Thomas Jefferson, Benjamin Franklin, Kant, Locke, Hobbes, Rousseau, Montesquieu, and Mill all supported it (Koch 324). However, Washington and Jefferson, two former presidents and admired men, both supported slavery as well. Surely, the advice of someone who clearly demonstrated a total disregard for the value of human life cannot be considered in such an argument as capital punishment. In regard to the philosophers, Immanuel Kant, a great ethical philosopher stated that the motives behind actions determine whether something is moral or immoral (Palmer 271). The motives behind the death penalty, which revolve around revenge and the "frustration and rage of people who see that the government is not coping with violent crime," are not of good will, thereby making capital punishment immoral according to ethical philosophy (Bruck 329).

The question of whether executions are a "cruel" form of punishment may no longer be an argument against capital punishment now that it can be done with lethal injections, but it is still very "unusual" in that it only applies to a select number of individuals making the death penalty completely discriminatory and arbitrary. After years of watching the ineffectiveness of determining who should be put to death, the Supreme Court in the 1972 *Furman v. Georgia* decision "invalidated all existing death sentences as violative of the Eighth Amendment's ban on cruel and unusual punishment and thus depopulated state death rows of 629 occupants" (Berger 352). This decision was reached not because it was believed that the death penalty was intrinsically cruel and unusual but because, as Justice Stewart put it, the "death penalty as actually applied was unconstitutionally arbitrary" (Berger 353). Local politics, money, race, and where the crime is committed can often play a more decisive role in sentencing someone to death than the actual facts of the crime. According to Amnesty International, the "death penalty is a lethal lottery: just one out of every one hundred people arrested for murder is actually executed" (Death Penalty Focus). In regards to racial discrimination in sentencing, it has been found that "racial bias focuses primarily on the race of the victim, not the defendant"

(Berger 355). Only 31 out of the more than 15, 000 recorded executions in this country have been of white defendants convicted of killing black victims, while black defendants convicted of raping white women were commonly sentenced to death (Death Penalty Focus). Stephen Nathanson, a professor of philosophy at Northwestern University addresses the problems of discrimination and randomness best by saying, "as long as racial, class, religious, and economic bias continue to be important determinants of who is executed, the death penalty will continue to create and perpetuate injustice" (Nathanson 346).

Proponents of capital punishment believe that the argument that the death penalty is discriminatory and arbitrary does not give support to the abolition of capital punishment, but rather to the extension of it. Edward Koch, the former mayor of New York from 1978 to 1989 and death penalty supporter, states that the discriminatory manner of the death penalty "no longer seems to be the problem it once was," yet in 1987, the Supreme Court case of *McCleskey v. Kemp* established that in Georgia someone who kills a white person is four times more likely to be sentenced to death than someone who kills a black person (Death Penalty Focus). In response to this, supporters of the death penalty believe that the death penalty should be extended to all murders. This is what was attempted after the Furman decision. A number of states sought to resolve the discriminatory and arbitrary nature of the death penalty by simply sentencing to death everyone convicted of first-degree murder, but the Supreme Court rejected this proposal saying that "mandatory death sentence laws did not really resolve the problem but instead 'simply papered [it] over' since juries responded by refusing to convict certain arbitrarily chosen defendants of first-degree murder" (Berger 353).

An argument against the death penalty which to sensible and decent persons should seem undeniable is the fact that innocent people have been murdered by the state in the past and in all probability more will follow. The wrongful execution of an innocent person is such an awful injustice that in any civilized society could never be justified, yet this is the message that the United States is willing to pronounce. Simply put by Professor Nathanson, "to maintain the death penalty is to be willing to risk innocent lives." In 1987, a study conducted by Hugo Bedau and Michael Radelet appeared in the *Stanford Law Review* concerning the execution of innocent people. The study concluded that in the period between 1900 to 1980, about "350 people were wrongfully convicted of capital offenses, 139 of the 350 were sentenced to death, and 23 were actually executed" (Nathanson 344). Over this eighty year period this figure averages out to the death of an innocent person about every 3.4 years. This fact is extremely disturbing and rightfully so, yet death penalty advocates blatantly disregard the information or attempt to

justify it in some way.

Those who support capital punishment claim that such cases of innocent people being executed have never occurred. For instance, Edward Koch quotes Hugo Bedau in support of his claim that such cases are not true, saying "it is false sentimentality to argue that the death penalty should be abolished because of the abstract possibility that an innocent person might be executed." Koch, in an attempt to gain political support, acted quite unethically by quoting Bedau out of context and implying that such cases have not occurred. According to David Bruck, a prominent lawyer for South Carolina Office of Appellate Defense, "all Bedau was saying was that doubts concerning executed prisoners' guilt are almost never resolved." Koch also failed to relate in his essay that Bedau, who had not yet released the 1987 study, had already comprised a "list of murder convictions since 1900 in which the state eventually admitted error" in about 400 hundred cases.

Another response to the fact that innocent people have been executed is that the small number of innocents executed outweighs the number of lives that will be saved since the possibility of being executed will deter others from committing a murder, and also lives will be saved since that murderer cannot kill again. Scientific studies have failed to prove that executions deter other people from committing crime. According to Dr. Ernest van den Haag, a well-known scholar in favor of the death penalty, "one cannot claim that it has been proved statistically that the death penalty does deter more than alternative penalties" (Haag 338). However, Haag supports his stand on the death penalty by stating that, "when they have the choice between life and death, 99 percent of all prisoners under sentence of death prefer life in prison." This statistic proves nothing but the fact that man has an innate desire for survival. Those asked the question have already committed the crime and thus does not reflect the sentiment of those considering a crime. Also, people often kill when under great "emotional stress or under the influence of drugs or alcohol - times when they are not thinking of the consequences" (Death Penalty Focus). Career criminals and those that plan a crime do not expect to get caught, thus making the consequences an invalid issue.

In response to the fact that a executed murderer will never kill again, society must ask itself whether it is morally and ethically acceptable to risk killing an innocent person when an alternative such as life imprisonment without possibility of parole exists. In California since 1978, more than 1,000 people have received this alternate sentence which

includes no appeals process. The public can be assured that those who commit heinous murders and receive this sentence will never be free again. According to Death Penalty Focus, "a recent Field Poll showed support for the death penalty plummeted when alternative sentencing is available. Just 29 percent favored death over life without parole plus requiring the defendant to work in prison and give part of his earnings as restitution to the families of his victims."

The use of capital punishment has endured throughout the ages, yet its use today in a "civilized" society should no longer be acceptable to morally and ethically conscience individuals. The vast majority of countries in Western Europe and North and South America - more than 80 nations worldwide - have abandoned capital punishment, yet the United States remains an avid supporter in company with countries such as Iran, Iraq, and China as one of the major users of capital punishment (Death Penalty Focus). The use of the death penalty in its discriminatory and arbitrary methods "only magnifies inequalities of race that persist in the criminal justice system and in American society generally (Berger 355). Even with the death of a guilty man, innocence is lost, for even Edward Koch admits that "the death of anyone - even a convicted killer - diminishes us all." But it is a sad commentary on the state of this country when we are willing to accept the avoidable death of an innocent man and allow the "death penalty to continue to create and perpetuate injustice."

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