

Capital Punishment:
Injustice of Society

Looking out for the state of the public's satisfaction in the scheme of capital sentencing does not constitute serving justice. Today's system of capital punishment is fraught with inequalities and injustices. The commonly offered arguments for the death penalty are filled with holes. "It was a deterrent. It removed killers. It was the ultimate punishment. It is biblical. It satisfied the public's need for retribution. It relieved the anguish of the victim's family."(Grisham 120) Realistically, imposing the death penalty is expensive and time consuming. Retroactively, it has yet to be proven as a deterrent. Morally, it is a continuation of the cycle of violence and "...degrades all who are involved in its enforcement, as well as its victim."(Stewart 1)

Perhaps the most frequent argument for capital punishment is that of deterrence. The prevailing thought is that imposition of the death penalty will act to dissuade other criminals from committing violent acts. Numerous studies have been created attempting to prove this belief; however, "[a]ll the evidence taken together makes it hard to be confident that capital punishment deters more than long prison terms do."(Cavanagh 4) Going ever farther, Bryan Stevenson, the executive director of the Montgomery based Equal Justice Initiative, has stated that "...people are increasingly realizing that the more we resort to killing as a legitimate response to our frustration and anger with violence, the more violent our society becomes...We could execute all three thousand people on death row, and most people would not feel any safer tomorrow."(Frame 51) In addition, with the growing humanitarianism of modern society, the number of inmates actually put to death is substantially lower than 50 years ago. This decline creates a situation in which the death penalty ceases to be a deterrent when the populace begins to think that one can get away with a crime and go unpunished. Also, the less that the death sentence is used, the more it becomes unusual, thus coming in conflict with the eighth amendment. This is essentially a paradox, in which the less the death penalty is used, the less society can legally use it. The end result is a punishment that ceases to deter any crime at all.

The key part of the death penalty is that it involves death -- something which is rather permanent for humans, due to the concept of mortality. This creates a major problem when "...there continue to be many instances of innocent people being sentenced to death."(Tabak 38) In our legal system, there exist numerous ways in which justice might be poorly served for a recipient of the death sentence. Foremost is in the handling of his own defense counsel. In the event that a defendant is without counsel, a lawyer will be provided. "Attorney's appointed to represent indigent capital defendants frequently lack the qualities necessary to provide a competent defense and sometimes have exhibited such poor character that they have subsequently been disbarred."(Tabak 37). With payment caps or court determined sums of, for example, \$5 an hour, there is not much incentive for a lawyer to spend a great deal of time representing a capital defendant.

When you compare this to the prosecution, "...aided by the police, other law enforcement agencies, crime labs, state mental hospitals, various other scientific resources, prosecutors ...experienced in successfully handling capital cases, compulsory process, and grand juries..."(Tabak 37), the defense that the court appointed counsel can offer is puny. If, in fact, a defendant has a valid case to offer, what chance has he to offer it and have it properly recognized. Furthermore, why should he be punished for a misjustice

that was created by the court itself when it appointed the incapable lawyer.

Even if a defendant has proper legal counsel, there is still the matter of impartiality of judges. "The Supreme Court has steadily reduced the availability of habeas corpus review of capital convictions, placing its confidence in the notion that state judges, who take the same oath of office as federal judges to uphold the Constitution, can be trusted to enforce it." (Bright 768) This makes for the biased trying of a defendant's appeals, "...given the overwhelming pressure on elected state judges to heed, and perhaps even lead to, the popular cries for the death of criminal defendants." (Bright 769) Thirty two of the states that impose the death penalty also employ the popular election of judges, and several of these even have judges run with party affiliations. This creates a deeply political justice system -- the words alone are a paradox. Can society simply brush off mistaken execution as an incidental cost in the greater scheme of putting a criminal to death?

"Revenge is an unworthy motive for our society to pursue." (Whittier 1) In our society, there is a great expectation placed on the family of a victim to pursue vengeance to the highest degree -- the death penalty. Pat Bane, executive director of the Murder Victims Families for Reconciliation (MVFR), stated, "One parent told me that people made her feel like she was betraying her son because she did not want to kill the person who murdered him." (Frame 50) This creates a dilemma of morality. If anything, by forcing families to seek the death penalty, their own consciences will be burdened by the death of the killer. Furthermore, "[k]illing him will not bring back your son[s]." (Grisham 402). At some point, man must stop the violence. Seeking temporary gratification is not a logical basis for whether the death penalty should be imposed. Granted, revenge is easily confused with retribution, and most would agree that the punishment should fit the crime, but can society really justify murdering someone else simply on the basis that they deserved it? Government has the right and duty to protect the greater good against people who jeopardize the welfare of society, but a killer can be sentenced to life without chance of parole, and society will be just as safe as if he had been executed.

A vast misconception concerning the death penalty is that it saves society the costs of keeping inmates imprisoned for long periods. In the act of preserving due process of justice, the court appeals involved with the death penalty becomes a long, drawn-out and very expensive process. "The average time between sentencing and execution for the 31 prisoners put on death row in 1992 was 114 months, or nine and a half years." (Stewart 50) "Criminal justice process expenses, trial court costs, appellate and post-conviction costs, and prison costs perhaps including years served on death row awaiting execution... all told, the extra costs per death penalty imposed in over a quarter million dollars, and per execution exceeds \$2 million." (Cavanagh 4) When you compare this to the average costs for a twenty year prison term for first degree murder (roughly \$330 thousand), the cost of putting someone away for life is a deal. Is it really worth the hassle and money to kill a criminal, when we can put them away for life for less money with a great deal more ease?

In earlier times--where capital punishment was common, the value of life was less, and societies were more barbaric--capital punishment was probably quite acceptable. However, in today's society, which is becoming ever more increasingly humanitarian, and individual rights and due process of justice are held in high accord, the death penalty is becoming an unrealistic form of punishment. Also, with the ever present possibility of mistaken execution, there will remain the question of innocence of those put to death. Finally, man is not a divine being. He does not have the right to inflict mortal punishment in the name of society's welfare, when there are suitable

substitutes that require fewer resources. I ask society, "...why don't we stop the killing?"(Grisham 404)

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