

COMMENT – Reevaluating Capital Punishment: An Ethical and Pragmatic Examination

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There is a longstanding belief in U.S. society that taking another person’s life is the worst of crimes. This belief poses a great ethical dilemma: Should capital punishment be considered an acceptable punishment, even for murderers? From a human rights perspective, the value of human life is incalculable and should not be disrespected. As society progresses, our beliefs about justice should change with it. Yet the United States stands as one of the only so-called “developed” countries that still incorporates the death penalty into its legal system. This essay argues that capital punishment should be abolished from the U.S. justice system not only because it is unethical and a violation of human rights, but also because it risks killing innocent people, is a waste of tax dollars, and is an ineffective deterrent of violent crime. Furthermore, this paper asserts that capital punishment disproportionately affects people of color, which further contradicts American tenets of equality and fairness.

Ethics and Human Rights

Americans must consider the ethical and human rights ramifications of allowing the government to utilize the death penalty. It is firstly a violation of fundamental human rights norms. The 1948 Universal Declaration of Human Rights and binding pieces of international law such as the 1966 International Covenant on Civil and Political Rights recognize the inherent right to life, as well as prohibit discrimination and torture and guarantee rights to fair trials and justice before the law (see United Nations, 1948 and 1966). Elsewhere in the world, the death penalty is seen as being “incompatible with human dignity”; the European Union and Council of Europe Member States have abolished its use as a condition of membership, and it is banned by the Charter of Fundamental Rights of the European Union (European Union, 2020, para 1). The principle of “an eye for an eye” contrasts

sharply with society's imperative to protect inalienable human rights, which exist regardless of an individual's behavior. The existence of the death penalty in the U.S. criminal justice system serves as a contradiction to American values, which are centered on rights protection. The death penalty intentionally annihilates life and contradicts the fundamental "right to life." The American Civil Liberties Union (ACLU) (2007) argues:

When the government metes out vengeance disguised as justice, it becomes complicit with killers in devaluing human life and human dignity. In civilized society, we reject the principle of literally doing to criminals what they do to their victims: The penalty for rape cannot be rape, or for arson, the burning down of the arsonist's house. We should not, therefore, punish the murderer with death (para 10).

The moral abhorrence of the death penalty is demonstrated by its inability to reflect society's changing norms of decency. The punishments we consider reasonable and humane should evolve in conjunction with the advancement of our societal moral conscience. The death sentence, a remnant of a bygone past, no longer corresponds with modern ideals and justice demands (Goldberg & Dershowitz, 1970). Our ideals of justice have changed considerably given how we now recognize the value of every human through such practices as rehabilitation, forgiveness, and redemption. With its permanent and irreversible nature, the death penalty opposes these progressive standards. Those sentenced to the death penalty are neither given the opportunity for rehabilitation nor allowed to repent for their crimes.

The death penalty sends a troubling message to society that sparks opposition to its use, and resistance to capital punishment has deep historical roots in the United States. Although administered in the name of "justice," the death penalty abandons ideals such as compassion and mercy. Capital punishment instead promotes negative values in society such as revenge and retaliation. By taking the life of a murderer, the death penalty blurs the lines between the actions of the murderer and those of the state. Opposition to capital punishment is nothing new in the U.S. The death sentence has always appeared to be inhumane and violent, regardless of whether it was carried out by an axe or injection. As early as 1773, a Harvard University legal review of the death penalty explained in a section titled "The Evolving Standards of Decency" that as our society evolves, we should change what we consider to be a decent punishment and reevaluate our actions (quoted in Goldberg & Dershowitz, 1970).

Many proponents of the death penalty argue that the modern death penalty is humane and therefore morally valid. However, this is far from the case, especially when one considers the gruesome details of botched executions, a harsh reality of the U.S. justice system. Researchers estimate that

approximately three percent of capital punishments have gone wrong in the U.S., with the highest percentage of error being through the commonly used method of lethal injection (Sarat, 2014). The death penalty cannot be considered humane when it can take two hours of pain for someone to be rendered unconscious due to someone administering the wrong dosage of a toxin. Horrifying reports of these botched executions, such as the 2006 suffering of Angel Diaz, reveal ghastly details that lead one to question the moral validity of such a practice. Diaz experienced severe pain and suffering for 34 minutes before he was finally declared dead after two injections due to the deadly chemicals being injected into his soft tissue rather than a vein (Radalet, 2022). These cruel deaths at the hand of the state require condemnation and reform. The practice is inhumane and a violation of human rights norms, including prohibitions on torture, and should be abolished.

Furthermore, racial disparities in the use of capital punishment violates the right to freedom from discrimination. It is inaccurate to call capital punishment a method of justice when it is disproportionately sentenced to members of certain marginalized groups and/or when murder victims are members of the (white) majority. In the United States, decades of research show how the death penalty is disproportionately used against people of color and allocated in cases where the murder victim is white. Since 1976, people of color have made up a disproportionate 43 percent of all executions, and they make up 55 percent of those currently on death row (American Civil Liberties Union, 2003). Moreover, 80 percent of capital trials feature white victims when around half of all murder victims are white (American Civil Liberties Union, 2003). This selective allotment of capital punishment shows how capital punishment operates inside a racialized framework that is biased against Black defendants and victims while privileging white ones.

Other Considerations

The Risk of Executing Innocent Individuals – In addition to the ethical and human rights concerns inherent to the death penalty, its use is also ineffective and logistically problematic. For instance, the death penalty comes with the horrifying possibility of killing innocent people – a mistake that is irreversible. DNA testing and other technologies have led to at least 159 people being freed from Death Row since 1973, highlighting how the justice system indeed makes serious mistakes. If timing and circumstances had been different, those exonerated prisoners would have instead died for crimes they did not commit (Innocence Project, n.d.). Eyewitness identification errors, pressured confessions, insufficient legal representation, and forensic errors are just a few ways that unjust convictions occur. Those weaknesses are exacerbated when one accounts for racial biases within U.S. society and the

criminal justice system. As reported by the Innocence Project (n.d.), official misconduct has been documented in three-fourths of the cases of Black exonerees and two-thirds of the cases of Latinx exonerees. Meanwhile, official misconduct is present in less than 60 percent of the cases of white exonerees. The irreversibility of the death sentence means that once a life is taken, there is no way to right the wrong.

The Financial Burden of Capital Punishment – The death penalty should also not be part of the U.S. justice system because it constitutes an extraordinary and inefficient burden on taxpayers. An abundance of evidence shows that the costs of death penalty proceedings and administration considerably outpaces alternative sentencing. For instance, a 2008 study by the Commission of the Fair Administration of Justice found the annual cost of the death penalty in California was a stunning \$237 million, compared to the \$11.5 million cost of a life sentence – a twenty-fold disparity (Gale, 2021). Media reports from the early 1990s echoed similar findings, such as how the cost of the death penalty in Texas was three times the cost of imprisoning someone in a high-security, single cell prison for 40 years (Hoppe, 1992). The death penalty is necessarily costly because of the gravity of the situation; it requires specialized jury selection, specialist legal counsel, and additional court procedures, among other costs (Death Penalty Information Center, 2012). Subsequent government expenses including food, housing, and funerals, on top of the cost of extra attorneys and officials, accumulate to further widen the gap between death sentencing and life-without-parole sentencing (Stephens, 2021). These “budgetary repercussions” of capital punishment (Baiker, 2001) are clearly unsustainable, especially compared to the less expensive alternative of life imprisonment.

Ineffectiveness as a Deterrent – Data suggests that capital punishment doesn’t serve as an effective deterrent to violent crime. In fact, most of the states that allow the death penalty also have much higher homicide rates than states that do not allow the death penalty (American Civil Liberties Union, n.d.). The ACLU (n.d.) explains that murders do not usually happen with an eye towards the future: “People commit murders largely in the heat of passion, under the influence of alcohol or drugs, or because they are mentally ill, giving little or no thought to the possible consequences of their acts. The few murderers who plan their crimes beforehand – for example, professional executioners – intend and expect to avoid punishment altogether by not getting caught.” In other words, most homicides are committed under circumstances where the perpetrators are not evaluating the consequences of their actions. As such, it is incredibly unlikely that capital punishment will play a role in deterring violent criminal actions. Statistics support this assumption; the use of capital punishment does not deter violent crime.

Conclusion

The use of capital punishment in the United States is unethical and violates fundamental human rights – including rights to life and equality before the law as well as freedom from discrimination and torture. It also brings with it a variety of harmful and/or ineffective complexities; it risks executing innocent people, it is expensive with a higher cost than life imprisonment, and it is ineffective in deterring violent crime. This combination of normative and practical concerns makes it clear that the United States should abolish capital punishment, much like its counterparts in Europe. Doing so would be a critical step toward creating a more just, humane, and ethically grounded criminal justice system.

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