

## Capital Punishment: Our Duty or Our Doom?

By Claire Andre and Manuel Velasquez

About 2000 men, women, and teenagers currently wait on America's "death row." Their time grows shorter as federal and state courts increasingly ratify death penalty laws, allowing executions to proceed at an accelerated rate. It's unlikely that any of these executions will make the front page, having become more or less a matter of routine in the last decade. Indeed, recent public opinion polls show a wide margin of support for the death penalty. But human rights advocates and civil libertarians continue to decry the immorality of state-sanctioned killing in the U.S., the only western industrialized country that continues to use the death penalty. Is capital punishment moral?

Capital punishment is often defended on the grounds that society has a moral obligation to protect the safety and welfare of its citizens. Murderers threaten this safety and welfare. Only by putting murderers to death can society ensure that convicted killers do not kill again.

Second, those favoring capital punishment contend that society should support those practices that will bring about the greatest balance of good over evil, and capital punishment is one such practice. Capital punishment benefits society because it may deter violent crime. While it is difficult to produce direct evidence to support this claim since, by definition, those who are deterred by the death penalty do not commit murders, common sense tells us that if people know that they will die if they perform a certain act, they will be unwilling to perform that act.

If the threat of death has, in fact, stayed the hand of many a would be murderer, and we abolish the death penalty, we will sacrifice the lives of many innocent victims whose murders could have been deterred. But if, in fact, the death penalty does not deter, and we continue to impose it, we have only sacrificed the lives of convicted murderers. Surely it's better for society to take a gamble that the death penalty deters in order to protect the lives of innocent people than to take a gamble that it doesn't deter and thereby protect the lives of murderers, while risking the lives of innocents. If grave risks are to be run, it's better that they be run by the guilty, not the innocent.

Finally, defenders of capital punishment argue that justice demands that those convicted of heinous crimes of murder be sentenced to death. Justice is essentially a matter of ensuring that everyone is treated equally. It is unjust when a criminal deliberately and wrongly inflicts greater losses on others than he or she has to bear. If the losses society imposes on criminals are less than those the criminals imposed on their innocent victims, society would be favoring criminals, allowing them to get away with bearing fewer costs than their victims had to bear. Justice requires that society impose on criminals losses equal to those they imposed on innocent persons. By inflicting death on those who deliberately inflict death on others, the death penalty ensures justice for all.

This requirement that justice be served is not weakened by charges that only the black and the poor receive the death penalty. Any unfair application of the death penalty is the basis for extending its application, not abolishing it. If an employer discriminates in hiring workers, do we demand that jobs be taken from the deserving who were hired or that jobs be abolished altogether? Likewise, if our criminal justice system discriminates in applying the death penalty

so that some do not get their deserved punishment, it's no reason to give lesser punishments to murderers who deserved the death penalty and got it. Some justice, however unequal, is better than no justice, however equal. To ensure justice and equality, we must work to improve our system so that everyone who deserves the death penalty gets it.

The case against capital punishment is often made on the basis that society has a moral obligation to protect human life, not take it. The taking of human life is permissible only if it is a necessary condition to achieving the greatest balance of good over evil for everyone involved. Given the value we place on life and our obligation to minimize suffering and pain whenever possible, if a less severe alternative to the death penalty exists which would accomplish the same goal, we are duty-bound to reject the death penalty in favor of the less severe alternative.

There is no evidence to support the claim that the death penalty is a more effective deterrent of violent crime than, say, life imprisonment. In fact, statistical studies that have compared the murder rates of jurisdictions with and without the death penalty have shown that the rate of murder is not related to whether the death penalty is in force: There are as many murders committed in jurisdictions with the death penalty as in those without. Unless it can be demonstrated that the death penalty, and the death penalty alone, does in fact deter crimes of murder, we are obligated to refrain from imposing it when other alternatives exist.

Further, the death penalty is not necessary to achieve the benefit of protecting the public from murderers who may strike again. Locking murderers away for life achieves the same goal without requiring us to take yet another life. Nor is the death penalty necessary to ensure that criminals "get what they deserve." Justice does not require us to punish murder by death. It only requires that the gravest crimes receive the severest punishment that our moral principles would allow us to impose.

While it is clear that the death penalty is by no means necessary to achieve certain social benefits, it does, without a doubt, impose grave costs on society. First, the death penalty wastes lives. Many of those sentenced to death could be rehabilitated to live socially productive lives. Carrying out the death penalty destroys any good such persons might have done for society if they had been allowed to live. Furthermore, juries have been known to make mistakes, inflicting the death penalty on innocent people. Had such innocent parties been allowed to live, the wrong done to them might have been corrected and their lives not wasted.

In addition to wasting lives, the death penalty also wastes money. Contrary to conventional wisdom, it's much more costly to execute a person than to imprison them for life. The finality of punishment by death rightly requires that great procedural precautions be taken throughout all stages of death penalty cases to ensure that the chance of error is minimized. As a result, executing a single capital case costs about three times as much as it costs to keep a person in prison for their remaining life expectancy, which is about 40 years.

Finally, the death penalty harms society by cheapening the value of life. Allowing the state to inflict death on certain of its citizens legitimizes the taking of life. The death of anyone, even a convicted killer, diminishes us all. Society has a duty to end this practice which causes such harm, yet produces little in the way of benefits.

Opponents of capital punishment also argue that the death penalty should be abolished because it is unjust. Justice, they claim, requires that all persons be treated equally. And the requirement that justice be served is all the more rigorous when life and death are at stake. Of 19,000 people who committed willful homicides in the U.S. in 1987, only 293 were sentenced to death. Who are these few being selected to die? They are nearly always poor and disproportionately black. It is not the nature of the crime that determines who goes to death row and who doesn't. People go to death row simply because they have no money to appeal their case, or they have a poor defense, or they lack the funds to bring witnesses to courts, or they are members of a political or racial minority.

The death penalty is also unjust because it is sometimes inflicted on innocent people. Since 1900, 350 people have been wrongly convicted of homicide or capital rape. The death penalty makes it impossible to remedy any such mistakes. If, on the other hand, the death penalty is not in force, convicted persons later found to be innocent can be released and compensated for the time they wrongly served in prison.

The case for and the case against the death penalty appeal, in different ways, to the value we place on life and to the value we place on bringing about the greatest balance of good over evil. Each also appeals to our commitment to "justice": Is justice to be served at all costs? Or is our commitment to justice to be one tempered by our commitment to equality and our reverence for life? Indeed, is capital punishment our duty or our doom?

(Capital punishment) is . . . the most premeditated of murders, to which no criminal's deed, however calculated . . . can be compared . . . For there to be an equivalence, the death penalty would have to punish a criminal who had warned his victim of the date at which he would inflict a horrible death on him and who, from that moment onward, had confined him at mercy for months. Such a monster is not encountered in private life. -- Albert Camus

If . . . he has committed a murder, he must die. In this case, there is no substitute that will satisfy the requirements of legal justice. There is no sameness of kind between death and remaining alive even under the most miserable conditions, and consequently there is no equality between the crime and the retribution unless the criminal is judicially condemned and put to death.--Immanuel Kant –

*Capital Punishment: Our Duty or Our Doom*, Andre, Claire and Manuel Velasques, Santa Clara University: The Jesuit University in Silicon Valley, Markkula Center for Applied Ethics, Spring 1988, April 15, 2016.