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August 10, 2004

Philo-101-Revision

### **Death Penalty Should be Abolished**

The American Declaration of Independence says that all persons are created equal and are endowed “by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness.” The Founding Fathers then setup a system of government in America based on these fundamental principles. The death penalty violates these principles because it trivializes the value of human life by placing it in the hands of an arbitrary judicial system. In practice, the death penalty is applied unfairly because of the race, class, and location of the convicted criminal. The death penalty violates the prohibition of “cruel and unusual punishments” in the American Constitution, which was written as the legal foundation for a moral nation. And finally, the real risk of the government executing innocent people and minors is unacceptable. Capital punishment has no role in a system of government that has supposedly long abandoned the principle of *lex talions* in favor of the modern penal system.

The biggest practical argument against the death penalty is the real risk of killing innocent people. As Hugo Bedau (727) says, calculating the risk of wrongful execution is very difficult – yet he estimates a risk of 0.3%. The risk is certainly greater than zero, a realization that caused former Governor Ryan of Illinois to commute the sentences of all prisoners awaiting capital punishment in his state after several Northwestern University journalism students discovered several cases of innocent people on death row.

The American justice system, consisting of imperfect human beings, is known to make mistakes. Despite the long appeal process, the finality of capital punishment prevents the government from ever redressing an error. This risk is too high to take, even if only a single innocent person is executed. Government is instituted among men to protect their life and liberty, and should never be allowed to put innocent civilians at risk. Some would argue that “by killing murderers we no longer have to worry about them killing any more innocent people. The number of innocent people saved will be greater than the number of innocent people executed” (*Wing Yan Sang*). However, this objection is irrelevant, because a lesser sentence (such as life without parole) would accomplish the same objective of protecting innocent victims without risking the killing of *any* innocent accused.

Another practical problem with America’s implementation of the death penalty is the sentencing of minors (16-18 years old), who are not yet old enough to participate in the political process – they cannot vote, serve in the military, or drink alcohol. The emotional and mental capabilities of minors are not yet fully developed, and they often do not fully realize the repercussions of their actions. It is wrong for the government to execute a minor before his or her moral capacity is fully developed.

The American Constitution created a system of government that protects individual rights while giving government enough power to fulfill social needs. The Eighth Amendment protects citizens from “excessive bails” and fines, and “cruel and unusual punishments.” While punishments are essential for self-defense, justice, and deterrence, excessive punishments only serve to brutalize society and make the government appear illegitimate. The death penalty is excessive because life without

parole removes the criminal from society (self-defense) and punishes the criminal for his or her behavior (justice). Some may argue that it isn't fair to spare the life of a person who took someone else's life away (*Wing Yan Sang*). This objection is somewhat childish (*ad hominem attack*) because it disregards the value of forgiveness and appears bent on revenge.

Further, the great majority of social scientists doing statistical analysis comparing jurisdictions with and without the death penalty have found that capital punishment does not visibly influence the rate of homicide (*MSN Encyclopedia Online*). The death penalty is also unusual in the world today because every single developed nation except the United States and Japan have abolished the death penalty since the Second World War. The United States also continues to practice the barbaric practice of capital punishment for many crimes not involving murder. "Non-homicide crimes which may result in a federal death sentence include espionage (*18 U.S.C. 794*), treason (*18 U.S.C. 2381*), trafficking in large quantities of drugs (*18 U.S.C. 3591(b)*), and others (*18 U.S.C. 3591(b)(2)*)" (*Bureau of Justice Statistics, Capital Punishment 1995 Report*). This is not only an excessive practice, but is also extremely cruel and unusual. Without considering any other moral or philosophical issues, capital punishment should be limited to homicide cases in order to be even considered fair under *lex talions*.

Even if the constitutional problems can be overcome, the death penalty is applied unfairly in America based on a person's race, economic status, and location within the country. Most of the people on death row come from the lower classes – they are far more likely to be convicted and sentenced to death because most are represented by underpaid and poorly trained public defenders (*ACLU Briefing Paper #8*). Further,

African Americans are approximately four times more likely to be tried for capital punishment, found guilty, and sentenced to death (*ACLU Briefing Paper #8*). Of the 32 federal death row prisoners as of July 1, 2004, 21 (67%) are black, 1 (3%) is Native American, and 10 (31%) are white (*Death Penalty Information Center*). The U.S. population is 69% white, 12% black, 13% Hispanic, and 6% other (*2000 U.S. Census*). These statistics suggest a large element of racism in the U.S. justice system. The government should not be providing another dangerous vehicle for the expression of state-sponsored racism. Finally, the geographic location of the crime affects whether a criminal is sentenced to death. Two out of every three executions take place in the Southern states – Texas, Virginia, Missouri, Florida, and Oklahoma. It is inappropriate that such a severe penalty is geographically arbitrary – it is preferable to have a uniform application of justice within the entire United States. The long history of capital punishment around the world and in America shows that there is no such thing as a perfectly sound and fair execution. It is fruitless to argue over the death penalty “in the abstract” – we must instead always look at how the system is implemented in practice.

Let us assume for argument that all of the practical and legal problems with the implementation of the death penalty can be resolved – all of the accused are known to be guilty, the death penalty is limited to cases of homicide, and it is applied fairly and uniformly across the United States. Nevertheless, the death penalty would still be immoral for a number of reasons. A modern society that respects the intrinsic value of human life should discard the old *lex talions* principle of an “eye for an eye and a tooth for a tooth.” This is a crude and outdated approach to criminal justice, and has been largely replaced by the modern penal system except in the case of capital punishment.

The practice of capital punishment only serves to brutalize society and appears to condone the very act of murder that it is trying to condemn. How is a society that executes a criminal any better than the murderer they are supposedly punishing? (As argued earlier, the deterrent value of capital punishment has not been shown to be marginally superior to life without parole.) A moral person in a “Rawlsian Original Position behind a Veil of Ignorance,” contrary to Bedau (718), would chose to live in a society that respects the *absolute* intrinsic value and sanctity of *all* human life. Many modern prisons have correctional programs in place to assist criminals in seeing the faults of their old ways, to regain their humanity, and to enter into a divine connection.

The death penalty should be abolished in every state because of the moral problems with capital punishment as well as the practical problems with its implementation. The death penalty is applied unfairly and non-uniformly in all practical cases due to unavoidable human fallibility. And capital punishment only appears to condone murder by disrespecting the inherent value of human beings. So for both moral and practical reasons, the death penalty should be abolished.