

Opinion

Death penalty

PRO

Thesis: Justice requires the imposition of death as a penalty for murder.

Thesis summarily defended: Justice is based upon meting out what is due. Proportional response to criminal behavior is the only just rule — criminals should be punished in proportion to the offense. Any deviation from this rule, whether too little punishment or too much punishment, constitutes injustice. Just as it is wrong to punish a bad check writer with a long prison sentence (because of disproportionality), it is wrong to forebear from punishing a murderer with death.



James Rogers

Thesis defended against select major objections:

Objection One: Capital punishment does not deter murder and is thus unjustified.

Deterrence is not an adequate rule of punishment. People who oppose capital punishment on the deterrence theory tend to ignore the "double-edged sword" aspect of deterrence. For example, if death would be the most effective method of deterring, say, parking violations, then sole resource to deterrence theory would require its imposition. Yet the reasonable moral intuition rebels at such an imposition — the punishment is obviously disproportionate to the crime, and is therefore unjust.

Objection Two: The death penalty is discriminatorily imposed. No and yes. There are two aspects to this argument. The first is that blacks are more often sentenced to death for murder than whites. This is no longer true. Based on a survey of recent studies, Michigan State law professor Richard Lempert recently wrote that "black murderers do not appear more likely to be sentenced to death than white ones."

A form of discrimination does exist, however, based upon the race of the victim.

Lempert observed, "greater retribution is demanded when whites are victims than when blacks are victims, because the white-dominated society values innocent white lives more than innocent black ones." This is a reprehensible result.

But the answer is not to then devalue all lives, but to judicially value all lives similarly; to value all victims' lives

irrespective of race — and punish all murderers equally.

Objection Three: Capital punishment is state-sanctioned murder. This argument assumes its own conclusion — and, thus, is circular. Simply examining an event externally does not address the morality of the event. The objection is like saying "imprisonment is simply state-sponsored false imprisonment" or that justly imposed fines are morally the same as robbery. The distinction between criminal activity and justified state action is that the state is responding to the initiator of the aggression, it is not itself initiating the aggression itself.

Admittedly the state kills when imposing death. But reasonable people sometimes kill justifiably. For example, it's not murder if shooting an ax-murderer is the only way to stop him from killing a baby. Why something is done determines whether what is done is right or wrong.

Objection Four: The state could put a wrongly convicted person to death. Obviously, all reasonable steps should be taken to prevent such a lamentable contingency, but the argument itself is incorrect — it "proves" too much. If the merest of possibilities of punishing a wrongly convicted individual vitiates the justice of the punishment, then all punishment is to be rejected and not simply capital punishment. For example, if a person wrongly convicted of murder is imprisoned for life and subsequently dies in prison, this argument "proves" that life sentences should not be imposed upon murderers. After all, there is then no way to right the wrong. If any punishment survives this objection, then capital punishment does as well.

Objection Five: Capital punishment violates the biblical injunction, "Thou shalt not kill." First, the more accurate translation of the verse is that contained in the New American Standard translation, namely, "You shall not murder" (Ex. 20.13). Second, most of the "religious" people who so piously intone this verse as an argument against capital punishment are using the Bible selectively. Only a scant 24 verses later, the Bible affirms capital punishment: "He who strikes a man so that he dies shall surely be put to death. But if he did not lie in wait for him, but God let him fall into his hand, then I will appoint you to a place to which he may flee. If, however, a man acts presumptuously toward his neighbor, so as to kill him craftily, you are to take him even from my altar, that he may die."

Rogers is a DN editorial page editor, and a law and economics student.

'Capital punishment is an easy way out for a society that hasn't been able to curb violent crimes. It's the desperate man's answer to a desperate situation.'

—Ad Hudler



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—Jim Rogers

Con

It will be the same song, but a different verse.

Talk up at the statehouse later this week will change from taxes and ag woes to that obstinate perennial favorite, capital punishment.

Sen. Ernie Chambers of Omaha again has proposed that Nebraska repeal its death penalty. Every year, the proposal seems to go nowhere. Tempers flare for a second or two. Emotions abound on the floor. But the idea eventually is shelved to wait for another year.



Ad Hudler

I really don't expect to hear any new arguments for or against the death penalty this year; the same ones have been used for years. The problem, however, is that the issue is clouded with misconceptions. In addition, senators sometimes fear that if they don't support the death penalty, their constituents will think they don't want to control crime.

One of these misconceptions is that the death penalty deters crime. Some professional social psychologists tend to disagree.

William Bowers and Glenn Pierce of the Center for Applied Social Research at Northwestern University remind us in an America magazine article that most killers plunge their knives or pull the triggers out of "momentary passion or from deep-seated aberrations."

Murderers are sick people. Most are mentally unstable. They often are hungry. Thus, they often base their reactions on survival, not rational thought.

Florida, which leads the country in executions, reported an increase of 14 percent in crimes in the first six months after the state's reinstatement of capital punishment in the 1970s.

Until we are able to compile some fancy report that accurately reflects the effects of capital punishment on crime, we're stupid to use it as an argument for keeping the death penalty. There's just too much disagreement right now. We don't know enough.

Another misconception: People often fail to realize that capital punishment discriminates against minorities and the poor.

Of the approximately 1,000 criminals on death row in the United States today, about 45 percent are black. Blacks make up about 15 percent of the total U.S. population. The big-time mobster or daddy's rich little boy who

can afford a good lawyer probably won't face death. The poor black who pulled the trigger out of desperation will fry. Having a good lawyer is the key to freedom in our legal system. But good lawyers cost money. And that's something most criminals don't have.

But put away all the fancy statistics, all those studies. The main argument against capital punishment is that it seems to go against everything society believes in. We believe in the value of life, so much that we can't seem to put a price on it. We spend millions of dollars every year trying to reform the mentally disturbed and juvenile delinquents. We seem to think we can change criminals, turn them into "good" people. By killing people for committing crimes, we're actually condoning murder. We get so upset with people who kill that we in turn kill them.

Another interesting twist: Some states recently switched from using the traditional hotseat to lethal injection. They claim the injection involves less pain than electrocution. Does that make it all the more acceptable? And what about those families of murder victims who want an eye for an eye? Don't they partly support the death penalty because they want the murderer to suffer like the victim did?

Maybe we're just frightened. We don't know enough about criminal behavior. We don't know how to "cure" criminals. We know little about how to decrease the number of repeat offenders.

Capital punishment is an easy way out for a society that hasn't been able to curb violent crimes. It's the desperate man's answer to a desperate situation.

Chambers' bill is a turn in the right direction. Instead of putting transgressors on the hotseat, Chambers wants to give them a mandatory 30-year sentence.

We need it. An Associated Press article in Tuesday's Lincoln Star said more than half the convicted murderers in this country served less than seven years behind bars in state prisons. The problem, it seems, lies in the courts. Chambers' bill would help take care of that.

Some folks say it isn't harsh enough for the violent crimes committed by John Joubert or Michael Ryan, two of Nebraska's celebrated murder suspects.

"Kill them," they say, worried about their own children. "Kill them."

These are the words of a species that we consider to be the most rational on earth.

Hudler is a senior journalism major and a Daily Nebraskan editorial page editor.

Letter

Brief letters are preferred, and longer letters may be edited. Writer's address and phone number are needed for verification.

NRA member resents 'maniacal thirst' reference

For almost four years I have read this paper. And although I often disagree with its generally liberal view on topics, I enjoy reading them. But the false information provided in the March 20 editorial on gun control prompted me to respond.

First, I am a member of the NRA and I resent being referred to as a person with a "maniacal thirst." Although a thirst for what was not stated, the context made it sound like blood lust. I fail to understand how the over 2 million people who belong to the NRA can all be stereotyped as to personality by their membership in an organization. That is like saying that all students attending UNL are crazed Husker fans.

Second, I would like to ask the source of the stated information that "most crimes committed in the United States involve handguns." According to the 1984 Uniform Crime Reports for the United States, of the 16,689 murders

committed that year only 44 percent involved handguns. The crime with the next highest rate of firearm use was robbery with 35.8 percent, although the percent of handguns used was not stated. More robberies involved strong-arm tactics than firearms.

The last thing I would like to address is the statement referring to handguns that, "they are made with one purpose in mind: to kill people." There are handguns designed and manufactured with hunting and target shooting in mind. For example, the Thompson Center Contender and various other handguns are designed for accuracy at long ranges as is needed for hunting or target shooting. Although by the nature of a firearm's purpose, to fire a projectile, they are lethal weapons quite capable of taking a human life, they have other uses also.

As for the bill presently being lobbied that would change the Gun Con-

trol Act of 1968, I feel that it should be passed. The Gun Control Act of 1968 has proved totally ineffective at keeping firearms from criminals. It has only made things more difficult for the owners of stores which sell firearms. Keeping criminals from using firearms will not be accomplished by laws that restrict or prohibit the ownership of legally manufactured handguns. The narcotics laws of the United States are an example of the failure of such laws. Although it is illegal to possess controlled drugs without a medical prescription, the illegal drug trade in the United States is a multi-billion dollar a year business.

The United States has a problem with crime of all forms, but stiffer penalties and different attitudes toward crime are the best present answers, not gun control laws.

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