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The United States government and the state governments should call an immediate halt to executions. Capital punishment has been abolished by most modern industrialized nations, it is not a deterrent to murder, and its administration in the United States is replete with error, injustice, and discrimination.

Except for the United States, all western democracies have abolished the death penalty, and most other industrialized nations have either abolished it or suspended executions (Bedau, Death Penalty Information Center). Our use of capital punishment associates us with some of the most repressive governments in the world and undermines our authority when we advocate human rights abroad. We agree with Amnesty International’s position that “the alternative to the death penalty, like the alternative to torture, is abolition” (1989, p 24).

First, capital punishment is not necessary for an effective system of criminal justice: there is no evidence that the many nations or the 12 American states that have no death penalty, are any less just or less effective in dealing with crime than nations or states that execute criminals. Crime rates in the United States are typically much higher than they are in nations without the death penalty; crime rates in states that use capital punishment are no lower than crime rates in states that do not. When the death penalty has been abolished, murder rates have not increased; when it has been introduced or reinstated, they have not decreased. In the weeks following an execution, the rate of murder does not decline; in fact some evidence suggests that it actually increases (Bowers, 1988). Decades of research have failed to produce any persuasive evidence that the death penalty is more effective than life imprisonment as a deterrent to murder (Bailey & Peterson, 1997; Lempert, 1981); thus its utilitarian value to society appears to be nil. The lack of any social benefit must be weighed against the severe social costs of capital punishment.

Second, there is mounting evidence that the decision making process in capital cases is egregiously inaccurate. Leibman, Fagan, and West (2000), in a comprehensive review of all the death penalty appeals in the United States from 1973 to 1995, found that more than two out of three death sentences (68%) were tainted by errors serious enough to warrant reversal. When these cases were retried, over 80% of the defendants were found not to deserve the death penalty, including 7% who were found not even to be guilty of the crime for which they had originally been sentenced to death. Between 1970 and 2000 eighty-eight (88) innocent prisoners were released from death row (Death Penalty Information Center).

Third, the application of the death penalty results in different sentences for defendants whose crimes are indistinguishable. In September 2000, the U.S. Department of Justice
released a report showing strong racial disparities in federal capital prosecutions (U. S. Department of Justice, 2000), corroborating and extending the similar findings of studies of state courts (Baldus, Woodworth, Zuckerman, Weiner, & Broffit, 1998; Gross & Mauro, 1989). These studies show a consistent pattern of bias by race of victim, with the odds that a Black person who kills a White person will be sentenced to death as much as six times greater than those for a White person who kills a Black. Likewise, wealth, social status, and geography play an obvious role in determining who is charged with a capital crime, convicted, and sentenced to death (Bright, 1994; Costanzo, 1997). In a just system, the most severe penalty would be reserved for the worst crimes, regardless of the wealth, race, or power of the offender. The empirical evidence demonstrates that capital punishment in America does not remotely approach that ideal; the distinction between those who are sentenced to die and those who are not is largely a matter of chance and bias.

Fourth, inaccuracy and unfairness are a predictable outcome of the unacceptable legal procedures that often characterize death penalty cases. There are no national standards to ensure that court-appointed defense attorneys have the training or experience necessary to handle these complex and extraordinarily serious cases, or to ensure that they are given the necessary time and resources needed to discharge this awesome responsibility. In many jurisdictions, defense attorneys for people who are on trial for their life are chosen without regard for appropriate training and experience, and are so poorly funded that many capital defendants are represented by inadequate or incompetent attorneys. Many jurisdictions fail to provide sufficient resources for defense attorneys to retain investigators and experts. As a result, crucial evidence that may be used in mitigation—evidence that justifies a life sentence rather than death—is too often overlooked. Jurors who are given no insight into the defendant as a person, shaped by a particular life history that may make his or her behavior more understandable, no evidence at all that might incline them towards mercy, often feel that they have no alternative but to reach a verdict of death (Bright, 1994; Haney, 1995, 1997).

Fifth, there is evidence that death penalty cases are often treated with less rather than more care for due process. There is also evidence to suggest that police and prosecutors, under pressure to solve heinous crimes as quickly as possible, sometimes conduct incomplete investigations, rely on doubtful eyewitness identifications and questionable testimony of jailhouse informants, fail to consider new evidence that points to innocence and on occasion may even hide such evidence, or obtain false confessions by threats and psychological coercion (Gross, 1998; Liebman, Fagan, & West, 2000; Radelet, Bedau, & Putnam, 1992; Scheck, Neufeld, & Dwyer, 2000).

Sixth, these deficiencies in due process can be exacerbated rather than corrected at the trial stage of capital cases. There is abundant empirical evidence that the legal instructions designed to inform the jurors’ decision between the death penalty and a life sentence are incomprehensible, resulting in decisions that are arbitrary or legally wrong. Jurors frequently do not appreciate the range of mitigating factors they are allowed to consider (Haney & Lynch, 1994,1997; Lughinbuhl & Burkhead, 1994), mistakenly believe that the law requires them to return a verdict of death in some cases (it never
does), and do not realize that the alternative to the death penalty (in most states) is life imprisonment with no possibility of parole, instead believing that unless they vote for death, the defendant will soon go free (Bowers, Sandys, & Steiner, 1998; Costanzo & Costanzo, 1994; Death Penalty Information Center). Citizens who are strongly opposed to capital punishment are not allowed on capital juries at all (Lockhart v McCree, 1986), so that capital juries are unrepresentative of the American people in their racial composition and their views about due process and sentencing considerations, and are biased towards guilty verdicts and death sentences (Cowan, Thompson, & Ellsworth, 1984; Fitzgerald & Ellsworth, 1984; Haney, 1984; Haney, Hurtado, & Vega, 1994; Lughinbuhl & Burkhead, 1994).

Seventh, the financial burdens of a system that includes the death penalty are far heavier than those of a system that includes only life imprisonment without parole (Costanzo, 1997; Dieter, 1997). Capital murder trials are more complex and time consuming than noncapital murder trials at every stage of the legal process—investigation, pretrial preparation, jury selection, guilt trial, penalty trial, and appeals. A 1993 study found that the extra cost of adjudicating a capital case through to execution was $2.16 million (Cook and Slawson, 1993). Yet, as we have already noted, this expensive system still fails to ensure minimally adequate legal representation and produces inaccurate legal results. Reducing the costs of the death penalty by speeding up the appeals process would inevitably increase the already high rate of mistakes in capital cases. If the death penalty were abolished, the financial resources currently devoted to the death penalty could be redirected to more effective methods of preventing and combating crime.

Eighth, we cannot count on the United States Supreme Court to right the wrongs of the death penalty process. The court has been unreceptive to all of the empirical arguments presented here (Ellsworth, 1988). The Court’s death penalty jurisprudence has been criticized for decades by legal scholars and social scientists as inconsistent and at times incoherent (e.g., Weisberg, 1984), resting more on result-oriented rhetoric than on precedent or sound legal reasoning (e.g. Amsterdam & Bruner, 2000). Over the last several decades, the Court has sanctioned the execution of juveniles (Thompson v Oklahoma, 1988), which is condemned even by most other nations that retain a death penalty, and of mentally retarded defendants (Penry v Lynaugh, 1989), which is not only condemned by other nations but also by the American public (Ellsworth & Gross, 1994, Gross & Ellsworth, in press). It has refused to declare any method of execution cruel and unusual punishment.

In 1997 the American Bar Association called for a moratorium on executions in order to “ensure that death penalty cases are administered fairly and impartially in accordance with due process” and to “minimize the risk that innocent persons may be executed” (ABA, 1997). In the same year the European Parliament and the United Nations Human Rights Commission called for the universal abolition of the death penalty, and abolition is now a precondition for membership in the European Union. Since then, evidence of error and discrimination in the administration of the death penalty in the United States has proliferated.
Therefore, be it resolved that SPSSI

1. Condemns the use of the death penalty.

2. Calls upon all regional and national governments to abolish the death penalty. Capital punishment provides no necessary benefits to society, while it exacts enormous social and economic costs: Conviction and execution of the innocent; discrimination against the poor, the powerless, and ethnic and racial minorities; diversion of attention and resources from other more effective ways of preventing and controlling crime.

REFERENCES


Death Penalty Information Center, <http://www.deathpeninfo.org/>


Penry v. Lynaugh (1989) 492 U.S. 302


