# Capital Punishment: For and Against



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The debate over capital punishment has been going on in the United States since the nation was created, and in Western Europe even longer. If we look outside of the United States, we find that death penalty has been abolished in all the nations of Western Europe and most countries in Latin America, but most of the rest of the world use it for a variety of crimes. Today in the United States murder is the only crime for which the penalty of death is generally permitted, and only in 37 states. Proponents and opponents of capital punishment have refined their arguments over the years, and generally the arguments focus on four areas: the death penalty as a general deterrent, as a specific deterrent, as an economical punishment, and as a punishment which is given only to those who deserve it.

Of all the arguments in favor of capital punishment, supporters usually contend first that the death penalty is a general deterrent. Arlen Specter, a former Philadelphia district attorney and current U.S. Senator from Pennsylvania has stated his belief that it is a general deterrence to murder: "I saw many cases where professional burglars and robbers refused to carry weapons for fear that a killing would occur and they would be charged with murder in the first degree, carrying the death penalty" (116).

A second argument by supporters of the death penalty is that is the execution of a murderer is a specific deterrent. Thomas Sowell, a columnist and Senior Fellow at the Hoover Institution in Palo Alto, California, makes the specific deterrence case as clearly as anyone else could:

> We know that the death penalty definitely deters those who are executed. The fact that this is obvious does not make it any less important. It is certainly not less important to the families of people murdered by those who have murdered before and who have been turned loose by judges or parole boards, or allowed weekend furloughs by 'progressive' prison authorities. (104)

Third, proponents claim that executing a murderer is cheaper than alternative punishment. This argument is based on the cost of keeping someone in prison for a life term, which is often assumed to be forty years. According to figures quoted by Derrick Z. Jackson, a columnist for the Boston Globe, the cost per year for each prisoner has been estimated at between $15,000 and $20,000 per year, or between $600,000 and $800,000 for each convicted murderer who could be executed instead of kept in prison for a life sentence. (A. 23) Why, ask the supporters of capital punishment, should we spend money to feed, clothe, and house a murderer for the rest of his life?

Finally, in a fourth argument, supporters are certain that there are enough protections to ensure that innocent people are not executed. The judicial system is set up, particularly in death penalty cases, to guarantee that "mistakes are a virtual impossibility with certain safeguards." (Leahy and Walker, A23) Even in those rare cases in which someone is wrongfully convicted and sentenced to death, the system guarantees their eventual release before they are executed. Supporters point to the release of 75 such people under sentence of death whose convictions have been overturned and who has been released from prison since 1972, as proof that the judicial system does work (A26; McCormick, 64)

However, opponents claim that capital punishment is not a general deterrence. Richard L Nygaard, a judge on the U.S. third Circuit Court of Appeals in Philadelphia, discussing general deterrence, has written that "statistics uniformly show that the condemned on death row did not consider the possibility that they might die for their crimes. ... Hence, we cannot now conclude that by killing one person we deter others from killing" (109-1 10). Capital punishment's lack of value as a deterrent, opponents remind us, is not new idea. Charles Dickens, the English novelist, felt that public executions could even be a cause of murder, rather than a deterrent. In l846, he "cited the familiar statistics of the 167 persons under the sentence of death [in London] of whom only three had not previously witnessed an execution..." (Cooper, 78-80).

Second, opponents assert that capital punishment is not the only specific deterrence available. Judge Nygaard, for example, finds that "the question here is whether death as a penalty is necessary…life imprisonment will protect society from further criminal acts by the malefactor." (110) Opponents feel that if it is not necessary to kill the murderer to protect society from him in the future, then we should not take such an extreme action.

Third, opponents claim that it is more expensive than alternative punishment. A closer examination of Jackson's figures, for example, shows that even though the annual cost of keeping a criminal in prison for life is $600-800,000, capital punishment cases, often with ten years or more of appeals, are even more expensive:

> In Texas, the average cost of a death penalty case is $2.3 million, three times the cost of locking up a murderer in maximum security for 40 years. The cost in Florida is $3.2 million per execution, six times the cost of life in jail. The average cost of capital punishment in North Carolina is $2.16 million per body. (A23)

And in addition to the monetary costs, Helen Prejean, a Catholic nun and anti-death penalty activist, points out that the death penalty also has a moral cost: “The death penalty costs too much. Allowing our government to kill citizens compromises the deepest moral values upon which this country was conceived: the inviolable dignity of human persons" (59).

Lastly, opponents claim that a number of innocent people have been given death sentences, and some of them have been executed. Since 1972, 75 people have been mistakenly prosecuted, convicted, sentenced to death, and later exonerated and released from prison. In a warning to those who want to simplify the appeals procedures so that the time between conviction and execution is shortened, a Washington Post editorial is very clear:

> Some of these people are clearly innocent. Others had trials so flawed that their convictions and sentences could not be sustained, and cases against them weak enough that they could not be retried. All are living examples of the dangers of a death penalty stripped of the procedural protections necessary to accommodate evidence of innocence that arises after conviction. (A26)

I do believe that the death penalty is not a general deterrent, and that it makes much more sense to believe that a person who commits premeditated murder almost certainly does not want or expect to be caught for his crime. In murders committed when a person is suddenly out of control emotionally, that person is not thinking of the possible penalties for his actions. In other cases, when a person's intention is to commit a robbery or burglary, any murder he commits along with the original felony is probably committed in order to escape the punishment for the original crime. As far as the general public is concerned, even though many surveys show that more than 70% of Americans favor capital punishment for murderers (Specter, 115; Wallet, A24), only l3% feel that it is a general deterrent (A Fondness, 113). Horace Greeley, a social reformer and founder in 1941 of the *New York Tribune*, illustrated the idea clearly when he asked his audience to assume a man is convicted and hanged for the crime of murder. When people are later asked why the murderer was executed,” the prompt, correct answer will be, 'Because he killed C.D.’ not “To prevent his killing others, nor yet “To prevent others from killing.” (Cooper, 36). If the public, including potential criminals, does not believe capital punishment is a deterrent, then it must not be.

I also believe that the death penalty is not necessary as a specific deterrent. Naturally, the criminal who is executed for murder can not commit any other murders, or any other crimes.

However, society is also protected from the convicted murderer if he is put in prison for life. Executing the murderer, then, must be for vengeance or some other reason, rather than a requirement for specific deterrence.

It is clear to me that the death penalty wastes an Iarge amount of money which could be used for other things, such as crime prevention. However, I am strongly persuaded by Jackson's economic statistics:

> California spends $90 million a year extra of taxpayer money for death penalty cases. In ... New Orleans, where two men were given the death penalty and one was given a life sentence for an execution-style slaying, the court costs for the two death penalty defendants are currently at $322,000 and $252,000. The costs for the defendant sentenced to life arc at $20,000. ... Between l9l3 and 1988, Florida spent $57 million to execute 18 people. That was the same state that five years ago released 3,000 prisoners early because of $45 million in budget cuts. (A24)

And besides the dollar costs, there is a moral cost to punishment. Sister Camille D'Arienzo, a Roman Catholic nun from Brooklyn, drafted a Declaration of Life which has been signed by more than 50,000 people. Basically, the declaration says that if I'm ever murdered, I want my killer punished-but not executed." Sister D'Arienzo says, "Hatred and revenge destroy the human spirit." Keven Doyle, head of the Capital Defender Office for New York, which represents death penalty convicts, agrees: "The purpose of an execution is for the victim's rights to be vindicated. But to vindicate someone who is opposed to the death penalty [by executing his killer] is foolish. There's already been an assault, and now this is an assault on the victim's moral convictions. "(Waller, A24)

Finally, we come to the strongest argument against capital punishment that innocent people have been and will continue to be executed by mistake. In fact, Paul Cellucci, then lieutenant governor, and now governor of Massachusetts, admitted a State House press conference four years ago that "execution of an innocent person is an inevitable risk of capital punishment." (Leahy and Walker, A23) Retired U.S. Supreme Court Justice Harry A. Blackmun emphasizes this point when he writes " The problem is that the inevitability of factual, legal and moral error gives us a system that we know much wrongly kill some defendants…( 69-70) Proponents of capital punishment are trying to shorten the time between sentencing and execution by severely limiting the appeals process. Their reasons for doing this is to make the

death penalty more cost-effective and a more believable deterrent. This streamlining of the federal appeals process from conviction to execution, could take less than two years. However, of the 75 people who have been released from death rows, and from prison completely, since 1972, “The average time from conviction to exoneration was seven years. Had the system moved faster, many on the list would be dead" (McCormick). Justice Blackmun's warns us that the execution of a person who can show that he is innocent comes perilously close to simple murder." (A26) Because of the possibility, and in my mind the certainty, of making mistakes in sentencing innocent people to death, I feel that Leahy and Walker's views describe my position perfectly:

"Lafayette’s 19th century declaration rings as true today as the day it was uttered: 'I shall ask for the abolition of the death penalty until I have the infallibility of human judgment demonstrated to me.' Tragically, nowhere is this human fallibility more evident than in the sorry record of our prosecutions in cases that carry a sentence of death. (A23)

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Macedo 8

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