

ANOTHER VIEWPOINT  
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THE DEATH PENALTY IN THE UNITED STATES:  
A WEB OF CONTRADICTIONS

Elias H. Tuma

In a little noticed announcement (Dec. 10' 99), Albania abolished the death penalty (DP). At about the same time the United Kingdom abolished it formally, though no one had been executed in the UK since 1968. The European countries have all abolished that penalty and made it a condition for any country wanting to join the European Union to be rid of the DP. The United States, in contrast, is reviving the DP, and many leaders in or running for office try to emphasize their commitment to maintain and implement it expeditiously. The irony in all this is that Albania is a Muslim country and Islam condones the DP. And yet, that former communist, traditional, little developed country has found it judicious to abolish it. It is true that Albania's incentive was to qualify for joining the European Union and, therefore, the Albanian Constitutional Court made it legitimate to take such action. Israel is another country whose theocratic orientation, Judaic Law, permits the DP as a punishment. Yet, since its founding in 1948 Israel has not applied the DP except in one exceptional case against the Nazi Eichman, and it took a special act of parliament (Knesset) to apply it. Israel has not applied the DP even against "terrorists" caught red-handed in criminal acts.

Thirty eight of the fifty United States of America now apply the DP. Over 500 people have been executed since its resumption in 1977. Ninety eight were executed in 1999. Attempts are being made now to expedite the execution of those on death row. Even individuals who had committed crimes before reaching adulthood are made subject to execution. All this is happening in this "Christian" country, which prides itself on being a champion of human rights. Christianity calls for forgiveness and reintegration of the deviant into society. George W. Bush, the governor of Texas and front runner for the Republican nomination for president, regards Jesus as his "idol" philosopher. Al Gore, the Democratic front runner, is a reborn Christian. Yet both are little disturbed by the contradictions between their faith and their willingness to allow the execution of individuals in the name of the law, the state, or so-called justice. Governor Gray Davis of California is a Catholic. He knows that the Council of Catholic Bishops in the United States is opposed to the DP, as is the Pope. Yet, Governor Davis has approved its implementation. It is also ironic that the DP is not mandatory in the United States and the judges and chief executives have the power to avoid it.

Confusion surrounding the DP, however, goes beyond its contradictions with Christianity and its basic teachings. There are questions regarding its rationale, functions, costs, procedures, and fairness. These questions should generate reasonable doubt as to the wisdom of applying the DP or keeping it on the law books. Reaching back into the Old Testament

teaching of an eye for an eye, proponents of the DP consider it a just punishment, a deterrent to others, or a service to society and the victims of the crime committed by the condemned. However, justice is not absolute. It is a value conceptualized and adopted by people for their own purposes, and what is just in one place may not be just in another. Even in the United States, various states judge and punish similar crimes in different ways, including not applying the DP. Charges against the unfair and discriminatory features of the DP have been common and yet its implementation is being sustained and expedited.

The supposition that the DP may function as a deterrent is not credible. Many social science studies show that the DP does not deter individuals from committing crimes punishable by death. Saudi Arabia, with less than seven percent of the population of the United States executes as many in one year as all the United States do. Yet crime in Saudi Arabia does not seem to be on the decline. China executes "criminals" swiftly and probably in abundance, and yet the crimes punishable by death have not been receding.

It is not evident either that the execution of criminals is the most satisfying punishment from the standpoint of the victim's survivors. In the United States the survivors usually have no say in what the punishment should be, or whether the condemned should be spared execution. Survivors of victims in Saudi Arabia have the option of sparing the life of the condemned and some choose to do so as an act of mercy, or in return for monetary compensation. Thus, the DP can hardly serve a constructive function for society or the victim's survivors. If anything, the DP leaves behind bitterness, animosity, and feelings of helplessness among families of both the victim and the condemned. Furthermore, implementation of the DP miseducates the young by telling them that killing in the name of the state is acceptable and that human life is expendable, contrary to the declarations of those who preach the philosophy of pro-life, basic human rights, and fairness and equality before the law.

Another consideration is the cost of application of the DP, from litigation through execution. The costs of each case in the United States run into millions of dollars. How much more economical it would be to put the condemned to work for life, both to pay for upkeep and to compensate the victim's survivors and the state. This approach has not been tried in the United States, as far as I can tell, and it may be high time to consider a life sentence with productive labor as a constructive alternative to the DP.

The process of execution is also abhorrent enough to be a good reason not to apply it. Various forms are permissible in the United States, depending on the state implementing it. The most common are the electric chair and injection with deadly chemicals. Questions of humaneness, absence of cruelty, and minimization of suffering have been factors in choosing between one method of execution and another. But they all end in taking the life of a frightened, immobilized, helpless human being, in cold blood. Apparently all those arguments for choosing the less painful, swifter execution are ways to ease the conscience of the law makers and executioners, rather than

to help the individual losing his/her life.

Cases punishable by death in the United States are automatically appealed to higher courts and could reach the supreme court. Even so, innocent people have been known to have been convicted. Their innocence may not be discovered until after they are executed. And yet, we continue to apply the DP, and some leaders want to shorten the period of appeals, and thus increase the risk of erring in applying the DP and implementing it. 5709 people have been sentenced to death since 1977, but of these 2137 people have been removed from death row because their sentence or conviction has been overturned. Is this ratio not high enough to make us shudder at the thought of possibly executing an innocent person in the name of "justice"?

The United States fights for human rights, dignity of the individual, fairness, justice, and against cruelty throughout the world. The DP violates all these values. A condemned criminal loses legal rights, but no one can take away his/her human rights. How can the United States preach these values to the world when they are violated here at home? The United States can lead best by setting an example by abolishing the DP, thus respecting the human rights of its people, and removing the contradictions between its proclaimed values and the laws governing its actions.

AVP is a non-profit, non-partisan monthly published by Elias H. Tuma, professor emeritus of economics, University of California, Davis, CA. The views expressed above are those of the author and do not implicate the university in any way. On internet: <http://www.ssd.sdsu.edu/~tuma/avpindex.html>