

Until Justice Absolutely Fair, End Death Penalty

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Connecticut in April became the fifth state in five years to abolish the death penalty. In Oregon this past December, Governor John Kitzhaber placed a moratorium on all executions, citing his refusal "to be a part of this compromised and inequitable system any longer". That public response has been relatively mute perhaps indicates that the time has come for Oregon to join Connecticut and sixteen other states in abolishing capital punishment.

The U.S. is one of the very few industrialized democratic nations that still have the death penalty. Most countries have abolished it, or severely curtailed its use. Today, 97 percent of all executions worldwide take place in just seven countries: China, Iran, Saudi Arabia, Iraq, Yemen, North Korea, and the United States. Much about capital punishment can be said simply by the company we keep.

The death penalty is a weighty moral issue. Both proponents and opponents seek the solution that values human life and instills hope in the community. Both seek justice. Both seek to safeguard society from future threats of harm.

While the question of whether someone deserves to die for a terrible crime they've committed is a sensible one, equally sensible though seldom asked is whether society's interest in executing persons guilty of murder is sufficiently compelling to justify the risk of making an irreversible mistake.

Our criminal justice system is fallible. Miscarriages of justice occur, as an abundance of wrongful convictions confirm. Juries, being human, err. Sometimes they are even biased. And sometimes police lie; snitches often do.

The death penalty in America is defined by error. For every nine people executed in the U.S. since 1976, one death row inmate has been exonerated and released. That's an astonishing error rate. Would we accept such an error rate in air travel, or in the operating room?

Most perplexing is that despite Americans longstanding distrust for "big government", there remains strong though declining support for the ultimate form of government power - the authority to take away a human life. Should we feel some cognitive dissonance from holding the conflicting beliefs that the same government that can't do anything right is flawless when it comes to prosecuting labyrinthine capital cases?

When the day comes when humans invent a perfectly just system, only then may the state be granted the right of mortal retribution. Until then, there is no way to implement the death penalty fairly. Despite all legal safeguards, whether one gets death remains unduly dependent on geography, the color of the defendant's skin, the color of the victim's skin, the victim's wealth and profession, the poverty of the defendant, and the integrity of law enforcement and the judiciary.

Much as we'd like to think otherwise, we have a system of justice that treats you much better if you're rich and guilty than if you're poor and innocent. Although racial bias certainly exists, wealth is the prime arbiter of innocence. The poor cannot afford high-profile allies and teams of lawyers to swing justice in their favor.

As Bryan Stevenson, founder of the Equal Justice Initiative, aptly states, "the opposite of poverty is not wealth, its justice".

And being as the poor are disproportionately people of color, the death penalty is meted out no less disproportionately on minorities. Since the death penalty was reinstated in 1976, three-fourths of those sentenced to death have been members of minority groups. More than two-thirds of death row inmates today are people of color, despite that they compromise less than one-third of the U.S. population.

The death penalty delivers on none of its promises. It does not deter crime, make anyone safer, or cost less than a sentence of life without parole. It is plagued by arbitrariness, unfairness, and racial bias.

And for so long as the poor get one form of justice, the rich another, all men are not created - or destroyed - equal. It's time for Oregon to replace the death penalty with the sole alternative of life without parole.