



Thesis

*Why We
Should Put
the Death
Penalty to
Rest*

Stephen
Nathanson

Thesis

Deterrence

Retribution

Problems

Inconsistency
of the practice
and the values

Biased
decision
procedure

Inconsistent
with respect
to human life

The death penalty is inconsistent with the importance most people place on justice, and the respect most people have for human life.



A logical point

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- ① People the ideals of human life and the importance of justice
- ② These ideals are inconsistent with the death penalty
- ③ \therefore Holding both contradicts these peoples' values



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- ① People the ideals of human life and the importance of justice
- ② These ideals are inconsistent with the death penalty
- ③ \therefore Holding both contradicts these peoples' values
- ④ You might deny holding the ideals of human life and the importance of justice
- ⑤ But that would ruin the credibility of your argument, and undermine your reasons for supporting the death penalty.



Deterrence

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- ① The threat of execution is a greater deterrent than lesser punishments and will lead to fewer murders
- ② If the death penalty is uniquely effective at deterring murder, then it is justified



Retribution

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- 1 The only just punishment for capital crimes is capital punishment
- 2 Anything less than capital punishment is morally unacceptable
- 3 The punishment should equal the crime.



Problems with Deterrence

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Underlying Moral Principle –

– If a punishment deters more murders and thus saves more innocent lives, it is justifiable.

- ① We can imagine punishments that have greater deterrent value, but would be wrong to inflict
- ② So, even if it is the best deterrent, it may still be wrong
- ③ So, the argument does not justify the death penalty



Problems with Retribution

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Underlying moral principle –

– We should do to the criminal what he/she has done to the victim

- ① The “eye for an eye” principle is obviously defective
- ② Not only is it defective, but *you don't even believe it*
 - ① It requires barbaric responses to barbaric crimes
 - ② It conflicts with our beliefs about the justification of punishment
 - ③ It is often ambiguous

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Problems with Death Penalty *in Practice*

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- 1 Even if Capital punishment really was the best deterrent against murder, and even if “eye for an eye” theory was an adequate procedure for determining proper punishments, it still doesn’t follow that we should adopt the death penalty.
- 2 There is a distinction between ‘justified in theory’ and ‘justified in practice’
- 3 e.g., Even if the above were true (i.e., it were justified in theory), if half the people who were executed were innocent, and if we knew it, we could not justify it in practice



Problems with Death Penalty *in Practice*

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- ③ e.g., Even if the above were true (i.e., it were justified in theory), if half the people who were executed were innocent, and if we knew it, we could not justify it in practice

What do we learn from this example?



The Death Penalty is Inconsistent with the Value of Justice

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- ① Capital Punishment is administered by real people in actual societies, and kills real people
- ② If there is an inconsistency, it is between the values of the supporters of the death penalty, and the practice of capital punishment
- ③ If you consider your own values, you'll see that they're violated by the institution of capital punishment



A just system

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① A system is just if:

- ① It separates the guilty from the innocent, and
- ② It separates those who deserve to die from those who deserve some lesser punishment

A system that fails either of these criteria is not just
In theory, the death penalty is assigned to those who commit a specific crime with exceptional terribleness. In fact, other factors play a role, too.



Race

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- ① 83% of people executed between 1976 and 1996 were found guilty of killing a white person
- ② Only 1% of people executed between 1976 and 1996 were white persons found guilty of killing a black person



Socio-Economic Status

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- 1 In GA, a poor defendant is 2.3 times more likely to receive the death penalty



Legal Representation

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- 1 Defendants using court appointed representation were 2.6 times more likely to receive the death penalty



The death penalty is inconsistent with a commitment to the value we place on human life

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- ❶ There is an inconsistency between affirming the value of human life and tolerating the current level of legal representation for people who face the possibility of death.
- ❷ Our system may lead to two sorts of mistaken judgments:
 - ❶ A criminal may get a more severe sentence because of race/social status/economic status.
 - ❷ Poor legal representation may result in an innocent person being sentenced to death.



Illinois Moratorium on executions

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- ➊ Between 1977-2000 12 innocent people were executed, and 13 completely innocent people were released from death row
- ➋ In some cases, police use coercive measures to extract confessions
- ➌ In at least 46 cases, murder convictions were based on testimony of other criminals whose sentence is reduced for testifying.

These facts are even worse for executions, since the death penalty makes corrections of errors irreversible



Respect for Human Life

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- ① Herrera v. Collins – 60 day limits on new evidence are not consistent with a commitment to respecting human life
- ② These practices reflect the facts that:
 - ① Legal bureaucracy desires to bring time consuming appeals to a halt
 - ② Officials do not want to be seen as incompetent
 - ③ Citizens want lower taxes more than they want to pay for competent lawyers for people charged with murder
 - ④ It is easier to respect the value of human life in words than in deeds



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