

## August 17, 2015; Arguments Against Death Penalty

Last week we reviewed the leading arguments in favor of the death penalty. This week, let's shift gears and explore the leading arguments against capital punishment as presented in the website ProCon.org.

- The leading moral question should not be whether people convicted of violent crimes deserve to be killed. Rather, the question is whether federal and states governments of civilized societies deserve to have the authority to kill a convicted person. The 6<sup>th</sup> commandment says "thou shall not kill." The commandment doesn't come with any exceptions. The human moral code should be above that of other animals on our planet. Two wrongs don't make a right.

- The death penalty is cruel and unusual punishment in and of itself and therefore violates the 8<sup>th</sup> amendment's prohibition against cruel and unusual punishment. As Supreme Court Justice William J. Brennan wrote in his 1976 dissenting opinion in *Gregg v. Georgia*, "Death is... an unusually severe punishment, unusual in its pain, in its finality, and in its enormity... The fatal constitutional infirmity in the punishment of death is that it treats members of the human race as nonhumans, as objects to be toyed with and discarded."

- There is no credible evidence that the threat of capital punishment deters serious criminal behavior more than does the threat of a life sentence without parole. In fact, social science has thoroughly undermined this theory.

Just look at the facts. States that have the death penalty do not have significantly lower serious crime or murder rates. Also, those states that have abolished the death penalty show no significant increase in serious crime or murders.

- Retribution is simply another form of revenge and is unacceptable. The desire for revenge is one of the lowest human emotions. Although the desire to seek revenge is understandable under some circumstances, killing the criminal is not a rational response to the situation.

Killing the killer simply continues the cycle of violence and ultimately destroys the avenger and the offender. Violence leads to more violence. It contaminates and undermines good will, an essential quality to human progress and understanding.

- Our criminal justice system is seriously flawed and too many people have been wrongfully convicted and sentenced to death. In fact, since 1976, over 150 people have been freed from death row because they were later proven innocent. That equates to one innocent person for every seven people who are executed.

In 2000, Wisconsin Senator Russ Feingold stated "It is a central pillar of our criminal justice system that it is better that many guilty people go free than one innocent should

suffer... Let us pause to be certain we do not kill a single innocent person. This is really not too much to ask for a civilized society.”

- If for no other reason, capital punishment should be abolished because it is not cost effective. For the following reasons, the death penalty is up to six times more expensive to administer than is a life sentence without the possibility of parole for the following reasons: First, pursuing a death sentence involves more pre-trial time than other trials. Second, if a person is convicted of a capital crime, a second trial is needed to determine if the death penalty is appropriate. Third, because there are two trials, more attorneys are involved. Fourth, more experts will be required – one for the regular trial and one for the penalty phase. Fifth, many defendants sit on death row for years while they pursue their appeals. The higher security required for their incarceration means greater housing expense.

- The current method of administering the death penalty is biased against minorities. Although African Americans make up 13% of the nation’s population, nearly 50% of those on death row are African Americans. A study released on 2006 revealed that between 2001 and 2006, 48% of federal defendants involved in death penalty cases were African Americans. These statistics clearly indicate that the American justice system is seriously flawed and no further death sentences at either the state or federal level should be permitted unless and until the racial bias in our legal system is eliminated.

- The American justice system unfairly discriminates against the poor. A poor person is much more likely to receive a death sentence than a wealthy person. Rich defendants can hire the best attorneys, while poor defendants must rely on court-appointed attorneys who frequently aren’t adequately trained. There can’t be equal justice under the law when there is such great disparity in the legal treatment between the poor and the rich.

Next week, we’ll conclude this series on capital punishment with a close look at Guam’s unique experiences with the death penalty.