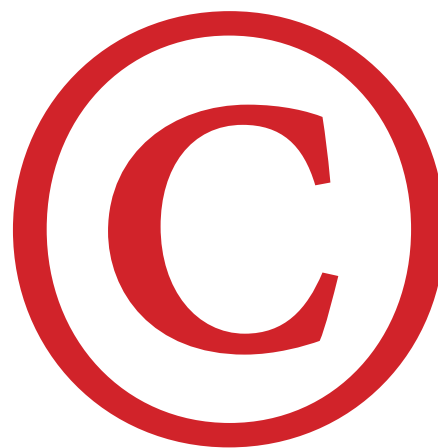


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It's time to put capital punishment to death

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Salt Lake Tribune

The decision by the Utah Attorney General's Office not to seek the death sentence for convicted killer Elroy Tillman (*Salt Lake Tribune*, Dec. 20, 2005) was right and proper. In all cases, capital punishment is unjust.

Proponents of capital punishment often argue that, on the basis of retribution, punishment and offense ought to be connected. In the case of murder, death is appropriate.

This principle, in legalese, is *Lex Talionis*, and dates back to the Babylonian Code of Hammurabi, restated in the Old Testament as "If any harm follows, then you shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burn for burn, wound for wound, stripe for stripe."

Aristotle and Aquinas used it as the basis for their commentaries on punishment. Dante based much of his depiction of the suffering of sinners in hell on the premise that divine penalty is determined by the sin committed. So, in the *Inferno*, gluttons are masticated, instigators of civil strife are dismembered, and so forth.

But, in order to be logically consistent, defenders of *Lex Talionis* must argue that rapists ought to be raped and torturers ought to be tortured. Can you imagine anything more ludicrous and reprehensible than the Department of Corrections hiring officers to rape rapists and drub wife-beaters? *Lex Talionis* is indefensible.

Proponents also argue that capital punishment deters crime, an argument dubious on several fronts. Most obvious is the prickly issue of putting innocent persons to death. Because errors are inevitable in even the most sophisticated legal systems, defenders of capital punishment must assert that the benefits (lower murder rates) outweigh the costs (killing innocents). Advocating the killing of the blameless, for whatever reason, is rather extreme.

Besides that obstacle, the cost/benefit argument assumes, rightly, that a significant number of murders are committed with forethought. However, many murderers are totally deranged, like the methamphetamine addict needing money, or the lover who discovers an act of infidelity in progress. The rational thought process - "Heck, I want to kill this person but I won't because I don't want to die" - seems unlikely.

Demographic evidence refutes deterrence. There is no statistically valid correlation between lower murder rates in legal jurisdictions which practice capital punishment, such as Texas, with those that do not. It has also been suggested that murderers like Ted Bundy actually commit crimes in states with operative death penalty policy in hope that they will be caught and put to death themselves, knowing they are out of control.

Further, the assertion that executing murderers saves taxpayer money is false. Carrying out capital punishment is more costly than life in prison without the possibility of parole.

Then there is the issue of "closure" for the families of murder victims. Evidence supporting capital punishment is mixed. At Utah Valley State College, Bud Welch, whose daughter was killed in the Oklahoma City bombing, stated that his rage did not dissipate upon the execution of Timothy McVeigh. Rather, it was a personal process of recognizing events occur beyond our control, along with forgiveness of the wrongs

of others, that helped him heal.

Unfortunately, as the philosopher Montaigne said, "Nature . . . attaches to man some instinct for inhumanity." Some humans are, plain and simply, violent, cruel and savage. More unfortunately, capital punishment is not going to change human nature.

Governments should be exemplars, on the public policy level, of ethical behavior. Worldwide, nations that have outlawed capital punishment are, generally speaking, those nations which are considered to be the most ethically advanced. Nations that practice capital punishment are generally considered to be the most despotic and depraved.

It is time that the United States live up to its claim as belonging to the former group, and put the death penalty to death.

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