

Capital Punishment: Against

Capital punishment has no moral justification. If we, as a society, are going to justify killing individuals then we must make sure that our justice system is perfect and absent of flaws. There is the position, held by some, that if the individual commits a heinous crime the state then is given the ability to respond in a heinous way. The government should not be excluded from the moral code of society. Another point, related to perfection, is that there is an overwhelming population of minorities that have been given the death penalty. Unless we can eliminate all discriminatory behaviors and decisions from our justice system, we should not allow this form of punishment. The “eye for an eye” decree by Primoratz and his theory on deterrence and the correlation of fear are the main basis of arguments to justify the death penalty (Mappes 125-131). Though I admire the thought process of Primoratz, this belief is flawed and based on an emotional foundation instead of an in-depth understanding of the moral implications of capital punishment (Mappes 125-131).

If we are going to allow citizens in our society to be killed for their crimes then we must have an absolute and flawless system, one that holds no doubts of killing in bad faith or killing those later declared innocent. Allowing the government to take a life shall not be an end all be all conclusion to even the worst criminals, capital punishment is simply not the answer. One in ten individuals on death row have been exonerated of all charges (Bryan). One human life is one too many and should be unacceptable to our society. The decision to kill should not be left to our government and our justice system, again, unless it is absent of flaw. Looking at this through a utilitarian lense, we need to weigh the risk-benefit ratio, there should not be a conversation of capital punishment unless there is perfection in the system.

If the system was perfect and able to show a 100% (undoubted) guilt, then another question must be asked: what is the purpose of all detention centers? At first, prisons were created to house inmates until the date of their punishment. Soon after they were implemented, they became rehabilitation centers. They allowed jobs in the prisons for inmates, as well as several means to earn money in order to use it towards a life outside of prison. Many rehabilitation programs were built and mental health assistance was prioritized. This system also needs to be updated and reworked, but the idea that every human is worth saving is the essential mission of detention centers. So, to justify capital punishment through these ideals and declarations is morally unjustified and damaging our societal values.

Around 90% of inmates on death row are unable to afford the adequate counseling they need (Bryan). Public defenders are overworked and unable to give a fair amount of time to their clients, simply put, the caseload for a public defender does not allow them to provide adequate representation (Farole). The purpose of public defenders has been to represent each client to the best of their ability with all the resources at their disposal, based on a fundamental principle found within the walls of our Constitution (Farole). The dedication and care that each person deserves is not given. As a society, we are failing these inmates by not treating them as what they are at their core, a human. Theoretically, you have one inmate on death row that is innocent out of ten, he/she is now in a system where he is not given the legal battle that he deserves, which is likely to lead to a removal of the fundamental right to life based off of simply an imperfection on behalf of the government, that is unacceptable. This same legal battle is one that each person in the United States of America has a right to, and shall under any and all circumstances. Once someone is deemed an "inmate," it is unacceptable to think of them as anything less than a

human. The term “inmate” is being socially repressive, same to that of the word “nigger,” for African-Americans. The justice system and the overworked attorneys are unable to give the inmates adequate counsel and we then are trusting that they are guilty and sentencing them to death (Farole). This is not morally justified under the moral parameters of our society as well as that of our Constitutional values and rights.

There are overwhelming statistics on the matter of capital punishment, but some of the most horrifying are the racial statistics. Bryan Stevenson, an attorney and professor at New York University School of Law, found that an individual was 11 times more likely to get the death penalty if the victim was white rather than black. He also found that if the defendant is black, they are 22 times more likely to get the death penalty. These extreme discrepancies are creating the racial narrative of how we are still struggling to accept our failures as a nation and lay a greater moral foundation. If race is the biggest determining factor to an individual getting the death penalty, then we are not conducting ourselves with moral dignity and are not moving forward in our country's progression. We are conducting ourselves with prejudice over the law and the facts. The case of *McCleskey v. Kemp* was a monumental moment in connection to the racial narrative we have created as a nation (*McCleskey*). In this case, the defense was given the allocation during the appeal process to prove that the decision to sentence *McCleskey* to death was racially biased (*McCleskey*). The state of Georgia heard the facts of this case and concluded that the state would go forward with the punishment due to two factors. The first declaration stated that if they allowed the argument of racial bias to be used in this case, attorneys all over the nation would then be able to use race in their own cases, of any nature. The second reason for their verdict is under the basis that in every case there is an inevitable and absolute

freedom for bias. These two weak arguments for sentencing a man to death should not be morally accepted, ethically accepted, or legally accepted. This is a human that was sentenced to death because the state of Georgia was “afraid of too much justice,” said by Justice Brennan, an American judge. The concept that we are allowed the freedom to be biased in any way is not morally justified, though may be inevitable. This concept goes against the rights that every individual should have, so the system must recognize the innate potential for biases rather it be racial or not and create a system acknowledges these biases but eliminates them from judicial decisions. Without the removal of bias influence, you have a flawed system; therefore, the conversation of capital punishment shall be off the table. The superiority of any characteristic or trait should not be in discussion when a life is at risk.

Our government should not be excluded from the moral code of our society, too much power has been given by the people to the governing body. If an individual cannot commit a heinous crime, then nor should our government. There is no grand difference between killing someone or agreeing to kill someone because they broke a law. Simply put, homicide is defined as, the killing of a person by a person, so allowing the government to kill a person is the same as allowing a citizen to kill another person, simply because the victim did wrong by the perpetrator. Capital punishment is just allowing the government to remove the basic liberty of life from someone whom wronged the state. So, if we allow this, then we shall also allow citizens to kill those who wrong them as well. If we do not accept this or find that to be morally justified, then we should not give more power to the state; after all, the power of our government is given to by the people. If we establish our democracy under the theme of freedom and rights then we should not condemn our citizens. We must

understand that rehabilitating our inmates should be our focus, not committing inaccurate, vindicated, murder. Life is the greatest gift we have. If we give the government the ability to take the lives of each other then we are failing as a society. We were always intended to be the land of the free, no matter what. That is the life blood of this nation. If an individual commits a heinous crime, we should understand that society failed them in some way. They are missing a significant element in their life so, we need to guide them in all of the morally acceptable ways to fulfill one's life and how to cope.

For those who are supporters of capital punishment there are some main argumentative declarations that can be found morally unjustified. The “eye for an eye” theory has been largely disputed(Mappes). The “life for a life,” or “eye for an eye,” perspective is simply allowing vengeful action to be taken on those who have hurt many lives(Mappes). If you look at the majority of victim’s families that request the death penalty, they are overtaken with anger, hate, sadness, etc. So, they are not in a place, emotionally, to make a clear and concise logical argument for the death penalty. Commonly, all in favor of the death penalty have the same basic argument: you did wrong to me and my family, so you too shall lose a life like you took of my loved one. If we continue to support the death penalty then we are allowing our society to believe violence is acceptable. The more we encourage the death penalty due to a logically unjustified reason, then we are stating that being vengeful is also acceptable. Though being vengeful may be a natural instinct, same to that of if you were to get hit in the face you are likely to want to hit them back, we are discussing a much more devastating loss here. The life of one person shall not be infringed upon, this holds true to citizens not being allowed to kill one another in a free-for-all, but also holds true to the governing body. Many believe in the deterrence method which is a

success in some areas of our laws. Although, when it comes to the death penalty, it does not work. The deterrence theory simply states that killing someone for committing a heinous crime, would show the rest of society that an act like that will not be tolerable. The concept of deterrence has too many flaws, most importantly research has yielded an inconclusiveness to the success of deterrence. For example, the state of Texas is well known for being a state that enacts capital punishment on a regular basis, but Texas still has a large amount of homicides committed every year. If the deterrence theory were to hold true, then situations like that seen in Texas would not exist. Deterrence does work on a smaller scale, for example speeding tickets. We do not drive at whatever speed we want because we do not want to be held responsible via an infraction, this is an example of deterrence working as planned. When it comes down to taking one's life, we cannot allow any opportunity to simply be wrong. So, killing a person in order to deter the public (maybe) from killing one another, is simply an ineffective argument until we have a perfect, flawless system.

Capital punishment is a conversation that must be taken off of the table of political discussion. Perfection is impossible when humans are involved. If we are unable to create a system that is perfect and without flaw then we shall not even be discussing the topic of killing someone due to their actions. If we are unable to allow people to kill one another because someone did wrong by them, then we shall not allow the government to do just that. It is simply irrational to think about removing our fundamental and absolute right to life, based on an emotional obligation of retaliation. Though we like to ignore racism and chalk it up to a historical concept, it is still very relevant today and seen mostly in our justice system. We must be a country that progresses past our social constraints in history. The

system is protecting and holding all inmates to the same standard, those of color are getting executed at an unbelievably higher rate than those of the majority. We, as a country, cannot allow this to happen to our fellow citizens. There is absolutely no moral justification to taking a life from someone because they ruined or removed the right to life for another.

Works Cited

“Bryan Stevenson on Why We Need to Abolish the Death Penalty| Op-Ed | NowThis.” NowThis News, 2018, <https://youtu.be/Woqm3NHzpms>.

Farole Jr. Ph.D, Donald. *A National Assessment of Public Defender Office Caseloads*. October 2010.
https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.jrsa.org/events/conference/presentations-10/Donald_Farole.pdf&ved=2ahUKEwjlk-qUit3nAhWoljQIHT1GDm8QFjAAegQIBBAB&usg=AOvVaw1A1W3mUFnKswi7Xgfz_MG1. PowerPoint Presentation.

Mappes, Thomas A. and Jane S. Zembaty ed. *Social Ethics: Morality and Social Policy*. 7th ed. New York, NY: McGraw Hill Publishing, 2007. <ISBN 10: 0-07-312545-8>

“McCleskey v. Kemp, 481 U.S. 279 (1987).” *Justia Law*,
supreme.justia.com/cases/federal/us/481/279/.