

The Subversion of Capital Punishment

What death penalty foes don't want you to know

By Lester Jackson Ph.D. : 28 May 2009

What they lack in popular support, death penalty opponents more than make up in tenacity, skill - and success. When a one-per-27 minutes, 36-year, 707,000 homicide holocaust results in 1,136 executions (0.16%), capital punishment has been all but abolished. What remains is a costly and agonizing farce, with a token few murderers served up to fool the public. The United States Supreme Court and other courts have played a major role, enormously aided by the media in suppressing critical information.

While laying claim to superlative morality, dishonesty, especially half-truth, is central to those who deem themselves merciful by bestowing mercy upon the merciless. There have been knowingly false claims of innocence. Moreover, in myriad cases, most recently on April 28, death sentences have been set aside or banned when guilt is not even disputed. This is achieved by focusing upon the alleged plight of brutal murderers, while callously withholding compassion, information and even thought about the massive suffering they inflict upon innocent law-abiding victims.

Yet, the public still supports the death penalty with little understanding of the true reasons why it is so rarely enforced. Therefore, proponents should take it upon themselves to actively and widely publicize unreported facts regarding how the courts have addressed murders, murderers and victims. Abolition would fail if the people were well informed of case facts and arrogantly imposed disingenuous legal absurdities, not the least of which is a Supreme Court majority's pretense that the Constitution gives them the right and power to decide if democratically determined criminal penalties are "unacceptable" and to reject them.

Consider the reaction if the public learned of these absurdities, wholly unrelated to innocence, concocted by judges who proclaim the superiority of their "own independent judgment" and lack of confidence in "decent jurors":

A murderer should have a serious chance to succeed with the argument that he would not pose a future threat if sentenced to life without parole because he was "only" dangerous to old ladies. A man can be mentally retarded, yet carefully plan rape and calculatingly murder the victim to avoid capture and return to prison. There can be no death penalty for "ordinary" murder with insufficient torture or suffering - or for barbaric torture without death.

An act that is "heinous" if committed by a person one day over 18 is rechristened "irresponsible" if he is one day under 18 because such a *murderer* is a "juvenile," a "boy"; but a *victim* of 16 is an "adult woman." Because the nearly-18-year-old has deficient "moral culpability," it is "indecent" and "uncivilized" to expect him to appreciate the wrongfulness of premeditated torture-murder and joyfully boasting about it; so he must be kept alive "to attain a mature understanding of his own humanity." When a 300-pound grown man torture-rapes an 8-year-old girl, causing her rectum to protrude into her torn vagina, requiring surgery, this is inadequate "moral depravity" if she does not die. So forget his mature moral culpability; he still has "dignity" that must be "respected" to "allow him to understand the enormity of his offense," one not enormous enough to justify execution.

It is not clear that a rapist really intends to kill a victim when he stabs her 53 times, including 18 in the genital area. One cannot be expected to foresee new murders (an entire family, including a two-year-old) when he merely smuggles a gun-filled chest into a prison to help two convicted murderers escape, one serving a life sentence for murdering a guard during a prior escape.

As a group, the depraved should be rewarded with reduced punishment because their numbers have grown. As individuals, increased depravity ultimately satisfies the court-mandated prerequisite for its fringe benefit: an invented constitutional right to commit new depraved acts free from punishment.

When juries impose death, they cannot be trusted; but when they do not, this reliably shows capital punishment is always unwarranted. Rape under threat of death, three weeks after giving birth, is not harmful. Trial judges must mislead juries to save the lives of convicted murderers.

If capital punishment is a moral issue, as its perpetually pontificating foes assert, a fair debate would cease being largely confined to legal experts but should confront the public - **and judicial nominees** - with questions such as:

Is it moral to value, in practice, the life of a law-abiding innocent citizen vastly less than that of a clearly guilty barbaric murderer? Is it moral to demand absolute death penalty perfection, with heartless unconcern for the perfect certainty of causing new innocent victims of clearly guilty murderers kept alive by mistakes in catering to abolitionist sensibilities?

Is it profoundly immoral for murder cases to last over thirty years? Given the original torture inflicted, often sadistically, upon victims, is it moral to compound that torture by forcing their also victimized families to endure decades-long obstructive legal proceedings unrelated to guilt or innocence? Is it moral for abolitionists to use this very torture they have inflicted, by manipulating a legal system run amok, as a weapon to compel proponents to surrender by accepting abolition to relieve that torture?

Is it moral to label executed sadistic and premeditated murderers the "real victims" of violence and to "love and care" about them, empathizing with their plight rather than that of those they tortured? To be considered "decent" and "civilized," must one show more concern for the "suffering" and "humanity" of the cold-blooded than their past - and future - victims?

Who should decide what is "moral depravity" and "moral culpability"- five unaccountable justices, or decent jurors and elected legislators? Is it tolerable for the values of unelected justices to trump the public's in a representative democracy? Given their absurdities, does the self-presumed morally superior "independent judgment" of unelected justices merit acquiescence? If they persist in imposing their own unpopular morality, abolishing a penalty expressly authorized by the Constitution, is the Supreme Court entitled to continued respect and the legitimacy dependent upon that respect?