

# The old deterrence argument just does not hold water

Part Two of Bob Lane's special series on Capital Punishment

The deterrence argument is often advanced by those who support the death penalty.

It goes like this: executing criminals will serve as a deterrent to future criminal actions of the same kind; deterring crime is a responsibility of a modern state; therefore the state should prevent crimes and protect citizens by executing criminals.

Now this is a reasonable sounding argument. It is based on the principle that the state has a right to protect its citizens, a kind of self-defense principle, which most of us would claim is not only correct but also at the very heart of political philosophy. Yes, the state has a right, even an obligation, to protect its citizens.

As the U.S. Sub-committee on Moral Arguments For and Against the Death Penalty put it:

"The only moral ground on which the State could conceivably possess the right to destroy human life would be if this were indispensable for the protection or preservation of other lives. This places the burden of proof on those who believe that capital punishment exercises a deterrent effect on the potential criminal. Unless they can establish that the death

penalty does, in fact, protect other lives, at the expense of one, there is no moral justification for the State to take life."

This sub-committee claims that deterrence is the only legitimate justification for the death penalty.

## FEAR OF DEATH

Although we might offer other arguments for the death penalty, deterrence is the most popular and the most easily understood. As citizens we have a right to protect ourselves by employing the force required to do so, and as citizens in a state we give the State the right to use force for purposes of collective self-defense.

A most persuasive argument — in part because we can all imagine how the fear of death would influence and deter us from performing certain acts. We generalize from our fear of death to the belief that fear of death will stop the murderer, the sex offender, the psychopath, from committing heinous crimes.

But we forget equally reasonable and accessible evidence which indicates how little fear of death motivates us.

How many of you are still smoking cigarettes? And yet you know that doing so is life threatening — the statistics are there for anyone who can read to see: smoking causes or con-

## Special series by Bob Lane

Bob Lane, Coordinator of Philosophy at Malaspina College, has written a special series of three essays, on the capital punishment issue. Today's article is Part Two.

The views expressed by Mr. Lane are his own, and The Daily Free Press is publishing them in the interests of generating debate on the topic.

Prime Minister Brian Mulroney, in keeping with a 1984 election promise, has announced a parliamentary debate and subsequent free vote by MPs. The process is scheduled to start later this year, though the date for the actual House of Commons vote is, at this point, anyone's guess.

The Daily Free Press invites readers to submit their views on the issue, whether they agree or disagree with Mr. Lane's views. Letters must conform to this paper's standing policy on all letters — name and address of the writer must be provided and will be published, authenticated (phone number will, of course, NOT be published).

tributes to lung cancer, heart disease, emphysema and will bring about a much shortened life. But many citizens continue to smoke.

## NOT DETERRED

Seat belts have been proven to be effective in reducing loss of life in automobile accidents, which by the way, kill almost 10 times as many Canadians each year as do murderers. Not wearing seat belts should be deterred by our fear of death, but estimates as high as 40 per cent of our citizens do not wear seat belts even though they must know that wearing them will

As a result we have to study murder rates in abolitionist states and in retentionist states and compare the results. These studies have been going on throughout all of the twentieth century. After all these years there is no conclusive evidence to show that capital punishment acts as a unique deterrent.

## NO CHANGE

Study after study has concluded that there is no significant change in the murder rate when a country abolishes capital punishment. Homicides do not increase as the executions decrease and conversely when executions increase there is no decline in homicides.

The British Royal Commission on Capital Punishment (1949-1953) reported:

"The general conclusion which we have reached is that there is no clear evidence in any of the figures we have examined that the abolition of capital punishment had led to an increase in the homicide rate or that its reintroduction has led to a fall."

Recent studies in the United States confirm this position. The U.S.A. is a researcher's dream because, since murder is a crime against the state and not a federal crime, states have reacted differently to the reinstating of the death penalty. Some 33 states

have the death penalty and the homicide rate in those states is actually higher than in the abolitionist states.

Recent studies in Canada confirm this position. Capital punishment does not work as a unique deterrent. It never has and it never will. This is true for many reasons.

## ONE IN THREE

First of all, capital punishment fails as a deterrent because of the odds against it ever being used. Even when Canada had the death penalty only about one in three murderers were hanged.

Secondly, murderers often have an indifference to death, or are not afraid of it at all, or have a strong urge to die in many cases. All of these make the deterrent effect null and void.

All of these reasons are enough to show that the deterrence argument is fatally flawed and should be dismissed by rational citizens.

But, more dramatically, what we have learned is that juries will acquit at a much higher rate when death is the penalty prescribed by law.

It follows from this discovery that the best way to protect society is not to have the death penalty.

— Part Three will be published tomorrow

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If just wasn't worth