

The arguments on revenge and what the Bible says

Sometimes one hears the argument that the state should have capital punishment because God says so. The holy books of various religions, it is argued, can be called upon to support various moral beliefs, and maybe the Bible will be instructive in the case of capital punishment.

The Old Testament certainly gives long lists of crimes for which death is the punishment. These include witchcraft, bestiality, adultery, violations of some religious rules as well as premeditated murder.

Exodus is very careful in setting out what counts as capital murder and establishing a kind of second degree homicide definition. Moses even sets up three cities to which those who have committed second degree murder are to be exiled. Many crimes are listed which we no longer consider to be crimes at all.

COMPELLING REASONS

In any case there are two compelling reasons to believe that the answer to the question of capital punishment is not to be found in the Bible.

First, the story of the first murder should be considered very carefully. Since it is the "first" murder, one can assume it is intended to be instructive. It is a genesis story. And, of course, Cain's punishment, given out by God, is not death but banishment or exile.

In the New Testament, of course, we find that Jesus stops the community from stoning to death the adulteress by the well, by reminding them that they too are guilty of error. On both occasions when the god figures in the story deal directly with a guilty human they do not invoke capital punishment.

If we wish to strive toward their example then we too should turn away from capital punishment.

Others argue that murderers deserve to die. But the whole notion of who deserves what is based upon a fairly silly view of reality which claims that there is some transcendent moral-measuring device — some kind of moral metre stick — which is knowable by mere humans. Who deserves to contract cancer? Who deserves to win the 6-49? "No one," is the only correct answer.

Another possibility is that determination is true and then what human beings do is entirely the result of a long string of material causes.

WEAKEST ARGUMENT

Clarence Darrow argued against the death penalty by presenting this kind of position, which states that our actions are as inevitable as are the actions of billiard balls when struck by the cue ball. If determinism is true then the whole notion of desert loses its force; the way to change behavior is to change the environment, not punish the agent whose acts are determined. This possibility seems sufficient reason to be opposed to the death penalty.

Retribution is the weakest of arguments for capital punishment because of its many presuppositions about people de-

serving things, about free will and about our ability to know that these things are true. But if we are mistaken about these presuppositions then we would be making a serious error to reinstate capital punishment, for the retributivist argument would have to be rejected.

We can still punish people to reform them, or to deter others or to protect society from dangerous individuals, but we can-

Capital Punishment: final part

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 the third and final part.

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. A daytime phone number must also be provided, so that the letter can be authenticated (phone number will, of course, NOT be published).

not do so because they deserve it.

"Retribution" is really a euphemism for revenge. Naturally we feel vengeful when some citizen violates the basic rules of civilized society. We feel anger when we learn of an Olson's crimes. We want to strike back, to get even, to eliminate the scum. And we feel frustration when we read of a police officer struck down in the line of duty by a criminal. These are understandable and healthy reactions to bad acts. But this does not justify capital punishment. This does not mean we can institutionalize revenge, nor should we try to.

Retribution looks backward. We must look ahead. We must base our criminal justice system on rehabilitation not revenge, on deterrence not desert, on protection of society not purging of emotion.

Economic Arguments

As the B.C. Civil Liberties Association says in its position paper on capital punishment: "Any

discussion of capital punishment must acknowledge three things which can be said quickly and firmly against it.

First, capital punishment consists of bringing about the death of someone. Since death is normally regarded as evil, and since it is always *prima facie* wrong to inflict anything evil on anyone, capital punishment is always *prima facie* wrong.

Second, capital punishment is an unusually cruel form of punishment. The actual mode of execution itself may be relatively humane, but the waiting period and knowledge of how and when one is to be killed is an exquisite torture.

Third, there is always the danger that an innocent person will be killed." Given that the death penalty is *prima facie* wrong then we must justify its return by some argument which gives us good reason to override its *prima facie* evil.

Over the past two days we have considered the most powerful of those arguments. We have seen how the retributivist attempts to justify the death penalty by presuming to know what human beings deserve. We have found presuppositional weaknesses in the revenge argument that led us to reject it as an argument which provided reasons to override the *prima facie* wrongness of capital punishment.

MORE ACQUITTALS

We looked at the deterrence argument, and found that there is no new evidence which shows that capital punishment is a unique deterrent. Since it does not provide any better deterrence than incarceration, then we cannot logically invoke the deterrence argument as a justification for capital punishment. Further, there is good evidence to show that juries tend to acquit more frequently when the only punishment is death. Thus, the protection of society principle leads us to abolish capital punishment.

But what of one last "retentionist" argument — economics?

It costs a lot of taxpayers' money to keep a murderer in prison for life, or for 20 years. Some murderers are truly dangerous persons who can never again be trusted in society. Isn't it better to kill them than to lock them up? Couldn't we use the money in better ways to eliminate social evils?

WHO SHOULD DIE?

One difficulty with this position is saying who should get killed. There are all kinds of non-murderers who are dangerous. There are the criminally insane, many of whom are dangerous and beyond rehabilitation. Are we to slaughter all dangerous persons? Should the drunk driver who kills with his car be subject to the death penalty? Should all dangerous persons be killed? We will indeed have a busy hangman.

If we are prepared to bear the cost of incarceration for the non-murderer and to bear the cost of support for the criminally insane, then why not for the incarceration of murderers?

All of these justifying arguments fail for the reasons I've indicated over the past two days. Lacking any justifying argument we must conclude that the *prima facie* evil of the death penalty has not been overturned. We must, therefore, as rational citizens, urge our government not to return to the past and not to return the death penalty to Canada.