

RAGE AND CONFUSION: THE DEBATE OVER CAPITAL PUNISHMENT

by
Melissa M. Wilhelm

Political Science Major
Resurrection High School, Chicago, IL

[Assignment: The final formal essay which you will be developing for this course is a piece of researched argumentation. Both parts of this label are important to your understanding of what this particular composition is to be. A paper could be researched without having an arguable thesis; you have been writing these ever since you were in elementary school and checked an encyclopedia for information about the life of George Washington. A paper could also contain an arguable thesis but not include researched material for support. An example of this would be a letter to the editor sent into the Torch. Your goal is to create a piece of written text with two or more arguable sides and then compose an essay in which you choose one opinion and support it with both your own ideas and researched material. Both the research and the argumentation are required for your essay to be successful and acceptable for the fulfillment of this assignment.]

Nineteen-year-old Sara Weir met Douglas Kelly at the health club, where thirty-seven-year-old Douglas was a janitor. When she met him, she thought that he was a really nice guy, and when Douglas invited Sara to his home one night, she accepted. Unbeknownst to Sara, Douglas had been convicted five times of sexually assaulting women. That night, Douglas raped Sara and stabbed her with a pair of scissors and stuffed her body under a bed. He then drove off in Sara's car. When he was apprehended by the police, Douglas admitted to killing Sara, but denied raping her and stealing her car. He knew these factors would automatically require the death penalty. When the jury was allowed to hear testimony from four of the other women that Douglas had raped, they came back with a death sentence. In this incident, the jury was able to return with a unanimous decision that Douglas Kelly should be put to death for his crimes. This is not always the case, however. More often than not, judges and juries have a hard time sentencing convicts to death, and this indecisiveness is becoming more and more common in capital cases. The wavering attitude surrounding the use of capital punishment is also evident in the case of minors. One of the biggest problems relating to the use of capital punishment, especially concerning the sentencing of minors, is the ambiguity that surrounds it.

The debate concerning the use of capital punishment is so layered that it is tough to know where to begin. Crime in the United States has gotten much worse in recent years; the crimes are being committed by much younger perpetrators and are becoming increasingly more violent. When the offenders are caught, tried, and convicted, society's first instinct is to deal with these criminals in exactly the same way in which their victims were treated. Approximately eighty percent of Americans favor the use of capital punishment (*The Economist* 20). Even though most people favor the use of capital punishment for the most ruthless

criminals in our society, including those who commit such crimes as murder and aggravated rape, the same amount of people are unsure if they could ever serve on a jury which convicted and sentenced a person to death. David Kaplan agrees, saying, "Despite tough political blusters and overwhelming poll numbers, the nation is ambivalent about the ultimate penalty" (25). I support the use of the death penalty for those members of society, regardless of their age, who commit such crimes as murder and rape. However, I can also include myself among those who have wavering opinions about carrying out a death sentence. I know that I support the death penalty for the most aggravated criminals in our society, but I also believe that if I ever had to serve on a jury who was overseeing a case involving capital punishment, I'm not so sure that my opinion would be so strong. I believe one of the reasons for this is that the death penalty, to those of us reading about in a magazine or watching it on television, is an illusion. It doesn't become real until we are directly faced with it.

The reasons people support or do not support capital punishment are as different as each individual person. Some support the death penalty because they feel that the death penalty will keep the crime level down. Unfortunately, current statistics show that homicide rates are among the highest ever, twenty years after the re-institution of the death penalty (Kaplan 29). Others oppose the use of the death penalty because some fallibilities in our judicial process may allow an innocent person to die for crimes that person did not commit. In fact, it is known that at least 23 people have been wrongly put to death for crimes they did not commit (Kramer 32). Some do not favor the use of capital punishment because of religious, moral, or ethical beliefs. The reason that most people favor the use of capital punishment is because we want those who have willfully taken an innocent life to pay for their crimes with their own lives. This idea is sometimes referred to as "an eye for an eye, a tooth for a tooth." Our society believes in revenge as a form of punishment. Many of us feel that those who hurt us should be hurt in the same way so that they know how it feels. However, these same people who favor this form of punishment remain ambivalent about actually putting people to death.

Many people who are sentenced to death remain on death row for many years. In fact, many inmates will sit on death row for at least ten years before they are executed; some are never executed. Only about two percent of the total death row population has ever been executed. In fact, the number one cause of death among death row inmates is not lethal injection or the electric chair; most death row inmates die of natural causes (Kaplan 25). To illustrate this point more clearly, Kaplan postulates that in order to execute all the inmates on death row, states would have to execute one death row inmate per day, including Easter and Christmas, through the year 2021 (25). After doing the math, I realized this means that there are nearly 9200 inmates nationwide who are currently on death row. The reason behind this backup of executions is the public ambivalence. Many feel that as long as someone is behind bars, serving a life sentence, that person cannot hurt anyone else, so the actual execution gets lost in some paperwork. I believe that in most instances the justice system works. However, I know that there are always exceptions to the rule. Many convicted criminals are eventually let out of prison on technicalities or on appeals. Just because a criminal is serving a life sentence does not mean that criminal will remain in prison.

The prisoners live on death row for several years, off of the taxpayers, sometimes never being executed for their crimes. Two professors at Drake University computed that the average cost to the taxpayer for guarding and housing a prisoner on death row to be \$2.2 million (*The Economist* 19). Many feel, myself included, that these inmates will never actually pay for their crimes until they are executed.

This case of ambivalence is especially relevant in the case of minors. There is a whole separate debate regarding whether young teenagers who commit heinous acts of violence should pay for those crimes with their lives. Many, including myself, feel that if a person, no matter what his or her age, commits an "adult" crime, such as murder or rape, that person's penalty should be the same as the one given to an adult who commits the same crime. However, some others argue that some children don't know any better than to commit crimes. They blame the ways the children were raised or the crime-ridden neighborhoods that the children grew up in. Although these are important factors, they are not the ultimate and deciding factors that would allow a child to be let free from a murder or rape conviction. One rather recent example of this is a case which occurred in Chicago last year and received national attention through the media. Two boys, ages ten and eleven, were accused of throwing a four-year-old boy out of a window in a Chicago Housing Authority low-income housing project. When this case was first looked into by the media, some reporters began to blame the CHA and the lack of bars on the windows, instead of blaming the children who were accused of the crime. In my opinion, the police should be working on why the boys did what they did, instead of blaming the neighborhood in which they lived. The only way that the police can stop this from happening again is by sending a message out to all the other kids who think they can be protected from the law because they are underage. These are the problems that judges, lawyers, and juries face when they are handed a case involving a minor.

The youngest person ever to be sentenced to death is seventeen-year-old Joseph Hudgins. At that time, Joseph was the youngest person in the nation to receive a death sentence. He was sentenced to death for the murder of a police officer during a robbery attempt. Joseph had been in trouble before, but only for minor cases of shoplifting. The night that officer Chris Taylor was killed, Joseph and his friend Terry were taking a stolen car for a joyride. Officer Taylor noticed the two young men behind the wheel of an Orkin Exterminating truck. The details after that are sketchy, but a passing car saw Officer Taylor lying on the ground, shot in the face. Joseph and Terry were nowhere in sight. The boys were eventually turned in by a classmate who had heard Joseph and Terry bragging about what they had done. When the boys were taken away by the police, Joseph almost immediately confessed to pulling the trigger. At that point, the police stopped looking for anyone else, because they had a confession. However, one night the defense team decided to go back and recreate the crime scene. Using scientific data to show the angle of the bullet, the entrance and exit wounds, and taking into account the position that each boy said that he was standing in, the attorneys came to a stunning conclusion; Joseph could not have pulled the trigger. It turns out that the morning after the crime was committed, Joseph and Terry agreed that if they got caught, Joseph would say that he pulled the trigger, when in actuality, Terry had been the one who pulled the trigger. They decided

to do this because Terry was eighteen-years-old and an adult in the eyes of the law. The boys figured that nothing could happen to Joseph because he was a minor, only seventeen-years-old at the time of the murder. Before the police knew this, they allowed Terry to plead guilty to being an accessory after the fact and guaranteed that he would never be prosecuted for anything in relation to the murder of Officer Taylor. Because of this, the judge in this case told the jury that they could either convict or acquit Joseph of the murder. They could not find him to be an accessory after the fact. The jury found Joseph guilty and sentenced him to death. This is one of those cases in which a technicality interferes with justice. I don't think that an innocent man should be put to death for a crime he did not commit. However, to acquit Joseph when he did play a part in the murder of Officer Taylor would also be unjust. Later, the jury mentioned that they did not convict Joseph on the physical evidence. In fact, the jury did not deliver its sentence until they were allowed to hear from the victim's wife (Rosenberg 46-66).

The circumstances surrounding this case add to the ambiguity of the death penalty. Even though the police were able to prove that Joseph did not pull the trigger, he was sentenced to death. Was this fair? Perhaps Joseph could have paid for his crimes with a lifetime prison sentence. The jurors were quick to sentence Joseph to death, even though he did not commit the crime. This seems odd because many times juries are unsure whether to sentence adult criminals to death, and Joseph was a minor. This conviction raises a serious point: if minors are too immature to vote, buy and consume alcohol, and watch X-rated movies, are they too immature to pay for their crimes with their lives (59)? This point is made in almost every capital punishment case surrounding a minor. In my opinion, children who know enough to murder another person must know the difference between right and wrong. In most cases, murder is a learned experience. Children learn by what they see. When they are exposed to violence in the media or where they live, they begin to think that this type of behavior is normal. Because they witness murder all the time, they feel that murdering others is a natural part of life. It only seems right that anyone, regardless of their age, who takes another life, should be ready and willing to pay for it with their own life. I feel the only exception to this rule is in the case of self-defense.

Another case involving minors and the death penalty is that of Lyle and Erik Menendez, a case which has been in the media for years. These brothers have been tried twice for the murders of their parents, with the first trial ending in a hung jury. Last month, however, Lyle and Erik were found guilty of the murders of their parents. The brothers admitted killing their parents because they had suffered years of abuse from their parents. At the time of the murders, the boys were minors. One of the controversies surrounding this case involved Erik's lawyer, Leslie Abramson. Ms. Abramson is best known for her courtroom antics that saved thirteen of fourteen of her clients from death row. Ms. Abramson is accused of falsifying evidence regarding Erik's psychiatric counseling sessions. The doctor assigned to these sessions admitted to omitting some passages from his notes. These notes may have included Erik telling his psychologist that he hated his parents and that he wanted them out of his life (Foote and Handcock 66). Abramson used her rights guaranteed under the Fifth Amendment against self-incrimination when she was questioned about her knowledge of these "holes" in the doctor's

notes. This discrepancy may be used against her in the next appeals process, and may provide an angle in which Lyle and Erik Menendez could be retried, or even acquitted of these murders.

There are many discrepancies in these cases which show why people are ambivalent about the death penalty. The Menendez brothers were sentenced to life in prison, not the death penalty. Why were they given life imprisonment when they admitted to violently murdering their parents, and Joseph Hudgins was given a death sentence when the police proved he could not have murdered anyone? In order for the death penalty to lose some of this ambiguity, there must be some particular standards for the death penalty to occur. *The Economist* reports, "[The death penalty] cannot be imposed arbitrarily and it must be imposed consistently" (19). The trouble with this is there are rarely two cases that are identical in nature. The circumstances surrounding each crime are different, hence leaving no consistencies. The only standards that exist with regard to the death penalty are the crimes that are punishable under it. Certain cases for murder, rape, and assault can possibly be punished by capital punishment, but the circumstances surrounding each situation are different.

One of the biggest controversies surrounding the use of capital punishment, especially in the case of minors, is the ambiguity and ambivalence that surrounds it. As we, the average citizens, sit around and wonder why a psychopathic serial killer received life in prison and that a seventeen-year-old who got scared while robbing a store received a death sentence, we must consider the fact that no two cases are alike. The circumstances surrounding each case are what make the difference in the punishment. The death penalty, itself, is ambiguous. As a society, most of us agree with the use of capital punishment, but when we are asked to enforce it on a jury, we have a hard time of carrying out the actual legal murder of another person. It's almost as though the death penalty looks good on paper, but when it comes to actually carrying it out, we develop a conscience. I believe in capital punishment. However, I cannot honestly say that if I were on a jury in which a possible sentence could be a death sentence, that I would be able to vote for death. I don't think I could have that on my conscience for the rest of my life.

Works Cited

Foote, Donna and Handcock, LynNell. "Counsel in the Hot Seat." *Newsweek* 22 April 1996: 66.

Kaplan, David A. "Anger and Ambivalence." *Newsweek* 7 Aug. 1995: 24-29.

Kramer, Michael. "Frying Them Isn't the Answer." *Time* 14 March 1994: 32.

Rosenberg, Tina. "On the Row." *Rolling Stone* 5 Oct. 1995: 56-66.

"The Waiting Game." *The Economist* 1 April 1995: 19-20.