Capital Punishment and the Death Penalty

BACKGROUND

Although more than half the countries of the world have abolished the death penalty in law or practice since adoption of the Universal Declaration of Human Rights over 50 years ago (Amnesty International, 1998), the practice of capital punishment persists in the United States. Between 1930 and November 2000, 4,890 people were executed and more than 3,500 people currently on death row await execution (Amnesty International, 1998; Death Penalty Information Center, 2000b; U.S. Department of Justice, 1997). Only China, Iran, Saudi Arabia, and the Congo execute more people than the United States (Amnesty International, 1998). To play a role in changing this reality, social workers need to be familiar with the following anti- and pro-death penalty arguments.

Anti-Death Penalty Arguments

Argument 1: The criminal justice system has sent innocent people to death row. Some have been executed (Friends Committee on National Legislation [FCNL], 2000). Between 1973 and 2000, 89 people were released from death row because of evidence of their innocence after spending an average of 7.6 years incarcerated and awaiting execution (Death Penalty Information Center, 2000b). Evidence that application of the death penalty is too arbitrary, too prone to error, and unfairly administered supports the argument that the system simply cannot be reliable enough to ensure the principle of life.

Argument 2: The death penalty is applied in a racially disparate fashion (FCNL, 2000). On the basis of a review of 28 empirical studies, the U.S. General Accounting Office (1990) reported a pattern of racial disparities at all levels—in charging, in sentencing, and in imposing the death penalty. In 82 percent of the studies, race of the victim was found to be a factor in how the death penalty was applied, with those who murdered white people 4.3 times more likely to be sentenced to death than those who murdered black people even though people of color are the victims in more than half of all homicides. A study of death penalty sentencing in Philadelphia between 1983 and 1993 found that black defendants were nearly three times more likely to receive a death sentence than were all other defendants (Baldus, Woodworth, Zuckerman, Weiner, & Broffitt, 1998). Only two of the 20 people on federal death row in 2001 were white.

Argument 3: The death penalty unfairly penalizes those who are developmentally unable to understand the implications of their behavior or cannot obtain proper counsel. As of January 1, 2001, 73 persons were on death row under death sentences received for juvenile crimes. These 73 condemned juveniles constituted about 2 percent of the total death row population of about 3,700. Although all were ages 16 or 17 at the time of their crimes, their current ages ranged from 18 to 42. They were under death sentences in 15 different states and had been on death row for a few months to more than 22 years. Texas has by far the largest death row for juvenile offenders, now holding 26 (33 percent) of the national total of 74 juvenile offenders. There are currently 83 death row inmates (all men) sentenced as juveniles, constituting 2.24 percent of the total death row population (Death Row USA, 2002). Sixteen states (CA, CO, CT, IL, IN, KS, MD, MT, NE, NJ, NM, NY, OH, OR, TN, and WA) and the federal government have a minimum age of 18 for capital
punishment. There is a problem in other states, where children age 14 or younger are tried as adults and subject to the death penalty.

On June 20, 2002, the U.S. Supreme Court ruled that the execution of people with mental retardation is contrary to the U.S. Constitution.

Finally, in relation to poor people, about 90 percent of people facing the death penalty cannot afford their own attorney, and no state has met standards developed by the American Bar Association (1989) for appointment, performance, and compensation of counsel for indigent prisoners.

**Argument 4: The U.S. murder rate greatly exceeds European non–death penalty nations.** Data released by the British Home Office reveal that the United States, which retains the death penalty, has a murder rate that is more than three times that of many of its European allies that have banned capital punishment. The data challenge the argument that the death penalty is a deterrent to murder. There are more than 110 nations around the world that have banned the death penalty in law or practice.

**Pro–Death Penalty Arguments**

Although this policy statement asserts that the reasons outlined fully justify rejection of the death penalty, four arguments that hold otherwise are assessed below (FCNL, 2000).

**Argument 1: The death penalty deters violent crime more effectively than does imprisonment.** Although recognizing that deterrent sanctions may be a valid and a necessary part of our system of criminal justice, statistics used to argue both sides fail to uphold the notion that the death penalty acts as a deterrent to homicide. In fact FBI reports show that, in general, homicide rates are lower in non–death penalty states. The South, which accounts for 80 percent of executions, repeatedly has the highest murder rate, and the Northeast, which accounts for less than 1 percent of executions, has the lowest murder rate (Death Penalty Information Center, 2000a). Although these figures do not disprove that individuals may be deterred from committing murder by the existence of the death penalty, they do suggest that the death penalty is not likely to be a more effective deterrent than an alternative such as life imprisonment.

**Argument 2: Families of crime victims support the death penalty (FCNL, 2000).** Crime victims’ families respond to the death penalty in a variety of ways. Whereas some argue for vengeance or atonement, others argue against the death penalty because it continues the cycle of violence. There are organizations aimed at healing for crime victims that are congruent with social work values and ethics. For example, Murder Victims’ Families for Reconciliation (MVFR) opposes the death penalty and supports the redirection of money currently spent on executions to victim-assistance programs. Restitution Incorporated helps death row inmates sell their artwork to support families of their victims or for crime prevention programs, and some groups seek actual reconciliation between murderers and victims’ families (FCNL, 2000).

**Argument 3: Murderers deserve to die (FCNL, 2000).** Some people who hold this belief express a desire for revenge. Although this is an understandable emotion in those who have suffered, furthering vengeance is not a responsible role for the state. Social work values and ethical principles hold that a prisoner, regardless of the crime committed, is still a human being. Execution denies the inherent dignity and worth of such individuals by precluding the possibility of rehabilitation.

**Argument 4: Keeping murderers alive costs society more than executing them (FCNL, 2000).** Under a vigilante system of justice, whereby a person is caught and immediately hanged, this argument would be true (FCNL, 2000). However, in a society based on laws that are concerned with fairness, accuracy, equity, and justice, the argument is false. Numerous studies have shown that the criminal justice system would be less costly if there were no death penalty because the costs are higher in a capital murder case in terms of both the initial trial and appeals (FCNL, 2000). The most comprehensive study found that the death penalty costs North Carolina $2.16 million more per execution than the cost of a non–death penalty murder case, with a sentence of imprisonment for life occurring at the trial level (Death Penalty Information Center, 2000b). Thus, even with limits on appeals, the higher costs at the trial level would remain.
ISSUE STATEMENT

Social workers share the concerns of other citizens about the rise in violent crime. They are very aware of the terrible consequences to the families of the victims of criminal homicide, and indeed, many social workers have personally experienced the anguish caused to their own families when a loved one has been murdered. It is a premise of this policy statement, however, that punitive action by the state can never compensate for such losses and that the death penalty is neither a sufficient nor an acceptable solution to the problems caused by violent crime. The following broad professional values and their corresponding ethical principles and specific standards, as delineated in the *NASW Code of Ethics* (NASW, 1999), undergird social workers’ responsibility to oppose the death penalty.

Dignity and Worth of the Person

NASW’s broad ethical principle that social workers respect the inherent dignity and worth of each person prohibits support of the death penalty. Capital punishment is an officially sanctioned violent act of killing as a way to deal with lethally violent behavior. Although homicide is unquestionably an act that diminishes the value and worth placed on human beings, the legitimization of killing through capital punishment also diminishes their value and worth. Both forms of killing are thus contradictory to this social work principle.

This ethical principle also applies to efforts by social workers to enhance clients’ capacity and opportunity for change. Although murder is a reprehensible crime, the infliction of the death penalty on people convicted of murder permanently forecloses their capacity for redemption and reform. Whereas returning individuals who have committed murder to the community may not serve the best interests of society, life terms served in prison create the potential for these incarcerated individuals to recognize and heal from the emotional wounds that fueled their addiction, violence, and criminal behavior (Casarjian, 1995).

Finally, this ethical principle and the corresponding Code (section 6.01) obligate social workers to be cognizant of their dual responsibility to clients and to the broader society and to seek to resolve conflicts between clients’ interests and those of the broader society in a socially responsible manner consistent with the values, principles, and standards of the profession. Rather than being a deterrent to violent crime, capital punishment legitimizes and expands the cycle of violence in society at large by promoting violence as a solution to intractable human problems and behaviors. By opposing the death penalty, social workers seek socially responsible alternatives aimed at stopping the cycle of violence in society and the world that is damaging and destroying human capacities and relationships.

Social Justice

This broad NASW ethical principle states that social workers challenge social injustice and pursue social change on behalf of vulnerable and oppressed individuals and groups of people. Related to this principle, the *Code of Ethics* (1999, section 4.02) prohibits social workers from practicing, condoning, facilitating, or collaborating with any form of discrimination. Furthermore, the *Code of Ethics* holds social workers responsible for engaging in social and political action to prevent and eliminate domination of, exploitation of, and discrimination against any person, group, or class (section 6.04d) as part of their responsibilities to the broader society. These values, principles, and standards provide the grounding for social workers to oppose capital punishment in that the death penalty has always been and continues to be differentially applied to people who are poor, disadvantaged, of limited mental or intellectual capacity, and from ethnic or racial groups. In the United States where executions have increased rapidly over the past several years, studies have shown a marked racial bias in the defendants selected for execution (Baldus, 1994; Dieter, 1998; U.S. General Accounting Office, 1990).

POLICY STATEMENT

NASW, on the basis of the arguments stated and grounded in professional values and ethical principles and standards as delineated in the *Code of Ethics*, maintains that the integrity of
human life and the promotion of human well-being are among the highest values to which a society aspires. The practice of capital punishment, which involves a deliberate act of execution by the state, is therefore at variance with the fundamental values of the social work profession. The death penalty is a violation of human rights that belong to every human being, even those convicted of serious crimes. In the United States its application is arbitrary, unfair, and prone to racial bias and targets people who are most vulnerable. Thus, it is the position of NASW that:

- The U.S. government and all state authorities, which have laws that provide for capital punishment, should abolish the death penalty for all crimes.

- Pending abolition, the U.S. federal and state governments should impose an immediate moratorium on executions.

- The states that allow for the use of the death penalty for crimes committed by those individuals under the age of 18 should raise the minimum age to 18, pending a moratorium or abolition.

- All states that allow the use of the death penalty against defendants who have mental impairments should enact legislation to prevent this practice.

- Federal and state authorities, pending abolition, should ensure that capital defendants are represented by attorneys who are adequately trained, funded, and experienced in the complexities of capital proceedings.

- In some cases NASW supports a life sentence as an alternative sentence to the death penalty.

**REFERENCES**


Policy statement approved by the NASW Delegate Assembly, August 2002. For further information, contact the National Association of Social Workers, 750 First Street, NE, Suite 700, Washington, DC 20002-4241. Telephone: 202-408-8600; e-mail: press@naswdc.org