

Death Penalty – a Key or Another Lock?

For the longest time in the history of man and in almost all the nations in the world, capital punishment or the death penalty act has been one of the most imposed methods as a form of punishment for serious crimes committed by man, for the purpose of retribution and deterrence in committing again the same crimes in the future. However, in the light on the discussions on the issues of value of human life and the focus of rehabilitation as an important aspect in the punishment of crimes, the debate on the rationality and effectiveness of the death penalty rages on.

Taking a brief look in the history of this ‘method’ of justice system in the Philippines, we can determine that it has been in the form of inconsistency. This form of punishment was very evident for much of our past until in 1987, the Philippines abolish this, making it one of the first in Asia. However, after some time in the Ramos Administration, it was reconsidered and passed on Senate to be legalized again. And then finally, the Catholic Church’s inevitable influence, backed up by the stronger concept of Human Rights, offered several commotions to Capital Punishment, and in Arroyo’s reign, its legality was once again abolished through R.A 9346. It is being implemented up to the present, (Cal, 2010)

Nevertheless, with today’s rampant commission of heinous crimes the clamour to bring back death penalty is again the center of debate among our countrymen.

As a concerned citizen, with regards to the simplicity of my current social status as a student, I will give out my stand and the main thoughts behind it. I am against the reimposition of death penalty in the Philippines. To make my claim significant, I have considered its impact of the law religiously, morally, politically, and overall, to humanity.

However, let us first take a look on and consider the proponents of this ‘method’ of justice system in our country and their main points.

Death Penalty proponents, such as the Volunteers Against Crime and Corruption (VACC) and Filipino Laymann for Life Family and Justice (FLLFJ), believed that heinous crimes, defined in the constitution as those offenses that are exceedingly or flagrantly bad or evil or those committed with extreme cruelty as to shock the general moral sense such as treason, parricide, drug trafficking, murder, robbery with homicide, etc., should be meted with the gravest punishment – death. (Jimenez, 2007)

Considering other proponents, I have deductively broken down the premises of their arguments mainly on three grounds, namely retribution, protection of society and deterrence.

First is their concept of retribution as a justification of death penalty.

According to VACC chairman, Dante Jimenez, heinous crimes are so grave that that life imprisonment as punishment is not enough. The gravity of punishment should be in proportion to the gravity of the offense. If someone kills another, it is justice that he gives his own life in return. (Loyd, 1989)

In 2002, a daring daylight robbery took place in Robinson’s Galleria in Quezon City (QC). The robbers were able to kill a security guard and wound 4 mall goers before escaping. PNP director General N. Bartolome, after learning the incident, told in an interview in dzbb radio, that he was in favor of restoring the death penalty on account of criminals becoming more brutal and aggressive. He said, “Criminals will hold up a victim then kill him. Then they will only end up with life imprisonment. This is not enough. What happens to those they have killed?” (Yap, 2012)

Attorney Romela Bangson, a practising lawyer also said in reaction to the same robbery in QC that banning death penalty to the most hardened criminals gives a wrong signal to them. “It’s like saying to them, you can kill innocent people but be assumed that your own life is safe because we don’t allow the death penalty,” he further said. (Yap, 2012)

In 2010, Senator Miguel Zubiri, in one of his privilege speech in the senate, sought to revive the death penalty. He said, “Let us restore death penalty on heinous crime. I always say, if you do the crime, you do the time. Now I say, if you do a heinous crime, then you can say goodbye to your time.” (Tan, 2010)

Supportingly, other death penalty proponents continuously reiterate that retribution justifies capital punishment. It is the right response to wicked acts done before. A person who kills is justified to be killed.

Next up is their idea of death penalty and the significant role it can largely play for the protection of society.

Like an individual who can kill someone under exceptional circumstances where his life is in danger, society also has the right to self-defense, the right to preserve itself when its existence is threatened. Death penalty maybe considered as a form of injustice but it is the only sure way to protect society from dangerous criminals and assure its existence, then its justified. (Jimenez, 2007)

A random death penalty proponent, cited in a newspaper editorial page (The Bohol Standard) the case of a convicted rapist in 1981, who escaped from prison and in 1999, attacked teachers and pupils in an elementary school in Zamboanga City. He was later killed by villagers but only after he succeeded killing four people and wounding six others. He also told a story of a

maniac adult raping his neighbour, a six year old girl in Misamis Oriental. (Philippines Need Death Penalty, 2004)

The presence of these criminals ruined the lives of the innocent and the defenseless. Conclusively, elimination of these demonic people will ensure the existence of a peaceful, secured and orderly society.

Last is their consideration for death penalty as a key factor in deterring crime rates.

If Death Penalty can promote less crime then its moral injustices can be disregarded. Eric Encina of FLLFS, one of the allies of VACC, said that it can discourage people from committing heinous crimes. He said he based this assumption on the “Deterrence Theory” which is based on the argument that practically all human beings fear the loss of their lives. Therefore, death penalty have a powerful deterring influence on human conduct. (Encina, 2011)

It is also in the same thought that Senator Zubiri added in his senate speech that he sincerely believed when death penalty is in place and the execution of hardened criminals by lethal injection gets full media coverage, the commission of heinous crimes will decrease. (Tan, 2010)

When Senator Miriam Santiago was still a commissioner in the immigrant department, she reported that she was privy about intelligence reports on the activity of global criminal syndicates and that the number of crimes committed daily in the Philippines rose to 34.3% in 1990 after the abolition of death penalty. She noted this as a significant increase in crime against life and chastity. (Teves, 2010)

These three arguments of the proponents of capital punishment are the ones I considered as the strongest and most decent. Having laid out its components, it's time for me to counter these and initiate some arguments of my own as well.

For the brevity in presenting my stand, I have concisely divided the presentation into three main parts. First, death penalty as an unjust punishment. Second, the negations of the early arguments of the proponents of capital punishment that I have evaluated and lastly, an argument of my own, concerning the inevitable tendency of capital punishment to be imposed arbitrarily here in the Philippines.

Death penalty can be considered as a form of punishment. Considering the major components of the term punishment, is death penalty a 'valid' one?

As writer Francis A. Allen wrote in his article on criminology, the moral purpose of punishment is to reform and salvage the erring sinner. It was not to be thundered in vengeance for the satisfaction of the state but imposed for the good of the offender in order to afford the means of amendment and to lead the transgressor to repentance and to mercy (in *Colliers encyclopedia*, 1977 ed). Therefore, if death penalty were to be considered as any form of punishment, it will be an unjust one for it does not comply with the moral significance of the term.

This brings us to my first counter-argument that is the invalidity of retribution as a justification to death penalty.

Consider this example, persons A, B, C, D, E and F lives in a society where there is death penalty justified by retribution. A killed B, and by the effect of the justice system, C, D, E or F has the right to kill A. C volunteered to kill A. Now, do you think it stops there? Not quite, by

the virtue of retribution justifying imposition of death, D, E or F has the right to kill C for the latter killed A. From there, a cycle of killings will push through.

When the death penalty proponents of VACC cited examples of brutal killings by hardened criminals, like what happened in Galleria, they condemned the criminals and wished that they be put to death. By doing this, they become vengeful and deviate themselves from the primary purpose of punishment (the one I have cited out earlier). In saying that retribution justifies capital punishment, they lose mainly the value of human life.

Putting someone to the death chamber because he has killed another is nothing but vengeance and hate. Executioners and death penalty proponents gain satisfaction in the killing, saying that it is fit for this criminal to be put to death because it is the consequence of his act. (The Heart of the Good News: Life , 2006) Death penalty in other words, can become brutality in the guise of justice and hideously commit upheavls to the ethics that guide us to live a humane life and therefore may cause increase in the level of disorder in our society.

When a society is threatened, it has to defend itself. Sometimes, it should commit some evil deeds (death penalty) because these are necessary to avoid greater evils (heinous crime). (Jimenez, 2007)

However, it only in a society of “absolute necessity” which is rare and practically non-existent that such defense is justified. Capital punishment on heinous crime is a necessity in the society because although there are always threats to a peaceful and orderly society, there are often means sufficient and as effective in defending and protecting a society. That is through non-Lethal means – life imprisonment without parole. The loss of freedom, lack of convenience, and personal humiliation are enough form of suffering that is proportional to the gravity of

offense. Furthermore, it does not forfeit the right to life of heinous criminals making it possible for them to reform and therefore justly defines the meaning of the term punishment. (The Heart of the Good News: Life, 2006)

When Zubiri and Eucina assumed that the fear of loss of life will discourage commission of heinous crimes, they provided no statistics, just theories. In 2010, then PNP Spokesperson, Superintendent Aigel Cruz when interviewed about the discussion of the reimposition of death penalty in the Philippines, said that PNP records showed no significant dip in the crime rate when death penalty was in place from 1994-1996. Senator Chiz Escudero, who happened to be also Kabayan's guest that night, said he saw no reason to reinstate the death penalty, "The death penalty will not stop miscreants from carrying out their crimes." He also emphasized his belief that it is still the 'certainty' of punishment and not the 'severity' that will deter crimes. (Purificacion, 2013)

A study of National Convention on Statistics (NCS) in 2004, where capital punishment is still legal in the Philippines, pointed out that no correlation exists between the number of crimes and the imposition of death penalty. The results of the research showed that economic factors are the robust determinants of crime rates. (Gillado, 2004)

In other words, in the Philippines, the deterrent effect of the death penalty law has never been significantly felt. Moreover, contrary to its purposes, this unjust punishment is very prone to cause even further injustices. Issues about our justice system and socio-cultural aspects will be the main concerns with regards to this.

In the past, death penalty was inevitably a punishment that was imposed arbitrarily in the Philippines.

Maria Diokno, head of the Free Legal Assistance Group (FLAG) expressed that death penalty law in countries like the Philippines, where there is no clean and fair justice system, will just mostly be evident against the poor. It's simply because they are generally unable to afford the competent legal defense they would need to fight unjust or inappropriate imposition on him of the death penalty (Waiting to Go, n.d.).

A 2006 socio-economic profile of 425 death row convicts showed this discrepancy on the social aspects of our country. Close to half (46%) of these convicts are poor unemployed, while 51% belongs to the blue-collar workers or manual laborers such as the agricultural, transport, sales, and service workers. A diminishing 3% are composed of degree-holders whose financial capacity can be compared with those of the middle class. (Death Penalty: Moral and judicial debate under the Philippine government, 2012)

Yes, the poor can avail free legal assistance from free public defenders of the Public Attorney's Office (PAO) but the results were often disastrous. PAO was severely under-funded, while its constituents were overworked despite not being well-trained. It acknowledges that most of its attorneys receive no special training on capital cases. It also noted that besides handling death-sentences, public defenders are involved in more than 350,000 civil and criminal cases each year, as well as millions of consultations, filings and mediation matters. FLAG cited cases in which these public attorneys advised clients to plead guilty to obtain a lighter sentence, unaware that the charges carry a mandatory death sentence. (Waiting to Go, n.d.).

All throughout the history of Death Penalty in the Philippines, a big crime boss or a proven corrupt government official had never gone to the death chamber. New Bilibid Prison has had its share of celebrated inmates, including ex-congressman of the 1st district of Zamboanga, Romeo Jalosjos. Convicted for raping a minor, he became notorious for his prison lifestyle. He built comfortable quarters in jail, hired body guards and even constructed the Maximum Tennis Club in the prison. His treatment made news worldwide and prompted a clampdown and ban on interviews with Deathrow inmates. The congressman was freed in 2009. (Waiting to Go, n.d.).

But perhaps the greatest inequality that can happen to the poor is the case where they are convicted and sentenced to die and execution was done and then after a long delay in the appeal found that accused was innocent. It can happen especially in an inefficient justice system like that of ours. This punishment is beyond remedy. No person can give another person's life; no compensation or restitution can be possible and justifiable. (Death Penalty: Moral and judicial debate under the Philippine government)

Such judicial errors have not yet been recorded or perhaps not yet detected in the Philippines. But just imagine the lack of perseverance among the members of the Supreme Court (SC) to avoid these errors. All conviction to death must be reviewed by the SC. Since the reimposition of the death penalty in 1994, there have been at most 1,064 persons sentenced to death until 2004. The SC has reviewed only 52. Of these, 6 were acquitted, 22 were affirmed, and 22 were reduced. (The Heart of the Good News: Life, 2006) In this simple statistics, how can one assume that all convicts of death penalty will be given fair and considerate trial? I do not need to say more.

Right now, has there been any drastic positive changes in our country's justice system? Did it achieved any form of judicial maturity to manage life and death decision? If death penalty will be reimposed, will it be purely dedicated to truth and justice? To all of these questions, I say no. Considering all the pending and unsolved cases stacked in the supreme court plus other current anomalies in our government, I don't want to risk the reimpositon of death penalty

Summing up, capital punishment commits major commotions upon the rights of humanity. Our recent history with this bill proved that it cannot significantly act out as an effective deterrent of crimes or a major factor in restoring peace in our country. Our still inefficient justice system suggests that reimposition of capital punishment would just cause further injustices such as arbitrariness and proneness to judicial errors. Therefore, capital punishment will not serve as the key for the Philippines to be a harmonious and criminal-free state rather another deadbolt that can lock progress, peace, trust and development in our nation. Life is a gift from God, let us always put it that way.

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