EIGHTEEN ARGUMENTS AGAINST THE DEATH PENALTY

By Dr. Daisy Kouzel

1) *The death penalty violates the sanctity of human life.* If you are opposed to abortion you must also condemn the death penalty. By forcing a human being to be born you make a commitment to safeguard his life after it leaves the maternal womb. There is more to life than just being born. Right to life means right to life, not right to birth.

2) *The death penalty is not a deterrent to crime, never has been.* It has been factually proven that it does not affect crime rates one way or the other (e.g. Michigan and Illinois; same crime rate, although Michigan does not have a death penalty. They are contiguous, and have similar social and economic fabrics). When they used to hang pickpockets in public, more pickpocketing was going on at the site of execution than had been done by the condemned man who was being hanged to set an example. As Professor Telford Taylor of Columbia University said, the death penalty is indeed a deterrent—for people who would not kill anyway.

3) *The death penalty does not fit the crime.* Most murder victims are killed swiftly. Not even the most hardened criminal keeps his victim alive for from seven to twelve years giving him a series of reprieves, some as short as fifteen minutes (see cases of Caryl Chessman and Barbara Graham). Even the “hit man”—the most despicable of all—will ensure that his target dies without knowing it. But our civilized society will stick a condemned man with catheters and start injecting lethal liquids, then interrupt the proceedings by fiat of the Supreme Court, only to kill him a few months later by fiat of that same august body (see case of J.D. Autry).

4) *The death penalty does not confine its ravages to the pure and simple termination of the criminal’s life.* It tortures all those who love him during excruciating months and years. They are innocent, and should not be made to suffer so! They should not be crushed by the pain and horror of saying goodbye on Death Row! This can be avoided by converting the death penalty to life imprisonment, and never mind that it’s crueler than death! Let the guilty party worry about that—if he is indeed guilty.

5) *The death penalty is self-defeating.* If the citizens on a jury know that a sentence can be amended in case of error they will be more likely to return a verdict of guilty, which would put killers behind bars. But if they fear inflicting death on an innocent person they will be more likely to vote for acquittal. As a result, murderers who would have drawn life terms are probably roaming our streets rights now, thanks to the death penalty.
6) The death penalty is wasteful. There are many drugs and sera that have not been tried on humans, and it is safe to assume that few, if any, condemned prisoners would refuse to submit themselves to scientific experiments in exchange for their lives—within limits dictated by decency and humaneness, of course. Think of the ravages of AIDS, which is a death sentence without possibility of a reprieve for many innocent lives! If you object that men cannot be asked to serve as guinea pigs I say why not, if you can compel them to sit in the electric chair or to mount the steps to the gallows? A card-carrying member of the ACLU said to me the condemned man’s life would be cheapened if we used him for medical research. I replied, “Is his life’s worth enhanced by its outright destruction?”

7) The death penalty, in its stomach-turning viciousness, impedes the rehabilitation of lifers and other convicts, because every time a man goes to his death by appointment there is a recrudescence of bad feelings in the prison population, and resentment reaches a peak, as does hatred for the “system.” Read Theodore Dreiser’s An American Tragedy! Read Oscar Wilde’s “The Ballad of Reading Gaol”!

8) The death penalty stains our hands with blood which cannot be washed away. Books, plays, TV specials, articles, etc., will continue to appear until the end of time, probing into the lives of the Rosenbergs, Sacco, Vanzetti, Bruno Hauptmann, and many others. If they had served, or were now serving, life terms, no one would mention their names, let alone entertain doubts as to their guilt. But these doubts cannot be allayed, and will always haunt us.

9) The death penalty is occasionally the result of the unreliability of witnesses and juries, unimpeachable though they may be. Even with the heavy penalties existing for perjury, no one can always be counted on to tell the whole truth. Man is fallible and death is final—two excellent reasons why the latter should not be meted out by the former.

10) The death penalty is not justifiable on the ground of self-defense, as its supporters would have us believe, because self-defense means immediate reaction to direct attack, not calculated homicide, years later, in cold blood.

11) The death penalty is a new sin in hell, in that it necessitates the commission of a fresh crime, a repeat performance in cold blood of the original act of murder, but by state officials, the good guys. And incidentally, the doctor who sits by waiting to pronounce a condemned man dead violates his Hippocratic oath, for by his presence and action he condones the taking of a human life.
instead of helping to preserve it. The Hippocratic Oath does not provide for exceptions.

12) The death penalty by its very nature thwarts the cultivation of the sense of the sanctity of life. If the authorities will respect life, this attitude will filter down to the lowest stratum of society. Far fewer murderers are perpetrated today than when executions were a dime a dozen and gibbets a common sight at crossroads, except of course in countries where the executioner is very active and blood keeps adding to blood. Why? Because humaneness and mercy produce more of the same. As criminal law humanized there was less crime instead of more, despite the geometric increase in populations. If state officials carry out a death sentence, they must perforce extinguish within their breasts all feelings of reverence for life; otherwise they would never be able to carry out their grisly task!

13) The death penalty can induce suicidal people to murder others in order to be killed themselves. If the death penalty had not been available to him in Utah, Gary Gilmore would not have committed a double murder, which he never tried to hide. This fact alone should suffice to induce death penalty enthusiasts to think matters over.

14) The words “Death Penalty” and “Capital Punishment” are terms in contradiction. How can a sinner be punished if he is physically removed from his world? The late Rabbi Victor Gollancz said, “Go and sin no more.” Victor Hugo admonished that sins are to be washed in tears, not in blood. Expiation is accomplished in life, not in death. For a punishment to have punitive value the criminal must have the chance to repent, to learn not to repeat his crime. Give him life imprisonment without parole. He will then have plenty of time to regret his foul deed. But his family, if he has any, will not be destroyed by that last visit on Death Row.

15) The death penalty is discriminatory. It is racially and economically tainted. In this great country of ours, when there is supposed to be “liberty and justice for all” the pattern of capital sentences has been that those who received them were nearly all indigent, overwhelmingly black—when measured against the black percentage of the total population—and nearly all convicted of killing whites. Sentenced to death are the drifters, the nobodies, the illiterates, the rejects. We want them dead because they are in our way, because we do not want to be afraid when we walk the streets!

16) The death penalty, which I dubbed the Science of Killmanship, degrades men to a level lower than that of animals. Ever since man was created, the killer instinct has been part of the baggage of human traits. After all, man is an animal, and his animal instincts have caused him to kill for various reasons: anger, jealousy, greed, hunger, pride, revenge, etc. Of course since man is endowed with the capability to distinguish right from wrong he does not as a
rule kill for these or other reasons. Animals do. Animals kill their equals all the time for the aforesaid reasons. But no animal has ever killed or will ever kill in the way man kills when he carries out the death penalty. No animal locks up another animal and tells him that he is going to kill him at a given time. *And no man does either, except those who carry out a death sentence.* No killer, even the most vicious, does that. As Albert Camus wrote, such a monster does not exist in real life. The death that an ordinary criminal inflicts, no matter how violent, is always light years away from legal execution, as far as violence goes. This is illustrated by the fact that, for example, when a man dies in the electric chair, his eyes bulge out and all his bodily fluids exude forming a pool in the hot seat. The hair goes up in flames, the body is forced forward against the straps, and yet the heart refuses to stop beating! When a man is hanged, very frequently the violence of the mode of death causes him to excrete black feces and jets of bloody urine. In many cases there is a sexual erection, which can only be ascribed to the fact that when the human body is *forced* to relinquish its hold on life untoward and horrifying things can and do occur. Heads severed by the guillotine have often blinked their eyes at the executioner. Victims of the firing squad have taken endless minutes to die. And since prison authorities are always overanxious to thwart suicide they must enjoy yanking out those wretched lives, otherwise they would welcome an opportunity of being relieved of their repulsive duty.

17) *The death penalty can, and does, serve as a convenient instrument for dictators, who use it to rid themselves of undesirable elements.* Had the death penalty not been available, the Ayatollah Khomeini would have been unable to do away with his adversaries. Zia of Pakistan would not have had the means to kill Bhutto. Mussolini would have been prevented from having Galeazzo Ciano shot. In our country a “homicidal” governor would be unable to sign death warrants, and life and death would not depend on the luck of the draw, i.e. on which state you happened to be born in.

18) *The death penalty represents a danger to the innocent among us,* and by innocent I do not mean those accused of crimes they did not commit. I mean the ordinary every day citizen who many happen to be sent abroad on a mission job—to Iran, for example. In Iran, homosexuality and adulterous love affairs are punishable by death. Would we want one of our people to suffer death for what at home we consider a non-crime? If the answer to that is no, then we must remove all instruments of death from our midst, or we will have no counter. We cannot protest against death if we mete it out ourselves. Far-fetched? No. All bases must be covered when life is at stake.

In conclusion, as Sir Walter Moberly said in his masterly work, *The Ethics of Punishment,* “In a society like ours, the estimate of moral profit and loss has led our
grandfathers to abandon public executions, dictates today that yesterday’s abolition\(^3\) of all capital punishment should be decisive and final.”

NOTES

1. Publication of Dreiser’s novel can also be used to support Argument #8, for it dramatizes the real-life murder of Grace Brown by Chester Gillette in the Adirondacks in 1906, a case given sensational press until the trial culminated in Gillette’s execution. At least two motion-picture versions of *The American Tragedy* have been made, together with film documentaries surrounding the original crime for upstate New York television stations. Studies of the case have also been prepared by small upstate publishers, including *Murder in the Adirondacks*, by Craig Brandon, published by North Country Books, Utica, in 1986.

2. One of the grim, grotesque sections of Wilde’s poem follows the execution, when the condemned, as though he hasn’t suffered enough, is buried, a scene that surely alienates the prison population even as it horrifies the reader:

   For where a grave had opened wide,  
   There was no grave at all:  
   Only a stretch of mud and sand  
   By the hideous prison-wall,  
   And a little heap of burning lime,  
   That the man should have his pall.

   For he has a pall, this wretched man,  
   Such as few men can claim:  
   Deep down below a prison-yard,  
   Naked for greater shame,  
   He lies, with fetters on each foot,  
   Wrapt in a sheet of flame!

   And all the time while the burning lime  
   Eats flesh and bone away,  
   It eats the brittle bone by night,  
   And the soft flesh by day,  
   It eats the flesh and bone by turns,  
   But it eats the heart away.