



Death Penalty as Philosophy & Morality

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Lynn University: The Dialogues

- Lynn's core curriculum restructures the traditional college curriculum throughout their learning experience to instill a common set of knowledge across all majors.
- The core curriculum is taught through five themes, skills, and abilities:
 - Self and Society (DSS)
 - Justice and Civic Life (DJC)
 - Belief and Reason (DBR)
 - Quantitative Reasoning (DQR)
 - Scientific Literacy (DSL)

The Dialogues Course Structure

- All Dialogues share a common set of readings and SLOs across the 100 and 200 levels regardless of area of study
- 300 and 400 levels are contextualized into various subject areas
- Example: CRJ330 Constitutional Law also fulfills the DJC300 requirement
- Contextualized Dialogues courses are not restricted by major area of study.

Course: Death Penalty Ethics (DBR300)

- Offering in general education program
- Class population draws from all majors
- Initial issues discussed in class
 - Global trend away from the death penalty
 - National trend away from the death penalty
 - Does American / Western society have a moral obligation to meet arbitrary standards of decency?
 - Is there any agreement on what is owed to condemned prisoners?

Specific Topics for Debate

- Transition from public executions to small functions witnessed by limited number of chosen witnesses
- Reduction in number of death-eligible offenses to a small range
- Eligibility by age & mental capacity
- Methods
- “Botched” executions
- Disproportionate racial representation

Methods of Execution in the United States

Currently approved by the federal government or one or more states:

- Electrocution
- Gas chamber
- Firing Squad
- Lethal Injection
- Nitrogen Hypoxia

New proposed method of execution #1

- Small number of states proposed use of seized opioids as readily available method of execution
- Public reception was poor – if opioids are a scourge on society, politically unacceptable to execute with the drugs that have killed so many loved ones.
- Some legislators opposed any method of execution perceived as pleasant, pleasurable, or giving a “high” to condemned prisoners.

New method of execution #2

- Small number of states have passed legislation allowing new method: nitrogen hypoxia
- Claimed benefits
 - No blood or fluids
 - Limited equipment & training needs
 - Painless, preserves dignity
 - Plentiful gas that is non-toxic
 - Well-understood biological events
 - Untested & unproven (originates in veterinary practices)

Issues of new methods

- **Opioids** known to kill on the street every day and **Nitrogen hypoxia** proven from industrial & cargo hold accidents, first-responder incidents, scuba diving accidents, and public works failures
- Can these meet the “evolving standards of decency” of *Trop v. Dulles*, 356 U.S. 86 (1958)?
- Test the Marshall Hypothesis – concurrence in *Furman v. Georgia* (408 U.S. 238, 1972) by Justice Marshall that information about the administration and effects of the death penalty would cause those who support capital punishment to reject it as unfair and ineffective.

Result of new methods proposals

- Lethal opioid execution failed to survive legislative consideration.
- Supreme Court declined to review nitrogen hypoxia – effectively approving this new method of execution until there is further legal challenge or a failure.
- Kenneth Smith was executed in Alabama on January 25, 2024. *It was not all that was promised ...*

First nitrogen hypoxia execution

- Execution took 22 minutes; for at least two minutes, Smith appeared to shake and writhe on the gurney, pulling against the restraints. Then several minutes of heavy breathing - until breathing was no longer perceptible.
- “We didn’t see somebody go unconscious in 30 seconds. What we saw was minutes of someone struggling for their life.”

Evolving standards of decency?

- Does this meet the “evolving standards of decency” of Trop v. Dulles?
- For my students
 - which method would you choose for the killer of your loved one?
 - for your loved one (the murderer)?
 - yourself as a convicted murderer?
 - If you believe, shouldn't they match?

Marshall Hypothesis

- Does this support or reject the Marshall Hypothesis?
- Does information about the administration, effects, arbitrary verdicts, or methods of the death penalty cause those who support capital punishment to reject it as unfair and ineffective?
 - For a DBR300 class, does your greater knowledge change your beliefs and reasons for promoting or rejecting the death penalty?

Thank You!

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