

# ~ The Fallacy of Life ~

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"...so that those who deliberately murder, plan and murder another human being, will die!"<sup>1</sup> (Bill Domm M.P.) Apparently, Mr. Domm believes state sanctioned execution is not planned and deliberate.

It has often been said that capital punishment heightens the social tolerance of killing; that "capital punishment [and the attendant.] atmosphere of morbid press sensationalism, panders to those sadistic impulses of mankind of which we are now aware and itself lessens public respect for the sanctity of human life."<sup>2</sup> Such assertions are difficult to prove, but in a world community where the United States, (a nation actively practicing capital punishment) bears a homicide rate of 8.49 per 100,000 and Great Britain, (an abolitionist country) has a rate of 1.11, it is difficult to seriously suggest the opposite is true.<sup>3</sup> Why then should Canada, with a rate 1/3 that of the U.S.A., desire to emulate the tragically ineffective measures clung to by the Americans?

At the outset I would like to correct a popular misbelief - Lifers do not favour execution. The Infinity Group is immovably opposed to capital punishment. Unlike some, I will make no attempt to determine when it is "right" to kill a human being. The dismal experience of centuries should tell us that once a society has assented to the circumstantial justification of murder there is very little limit to what it may condone.

Capital Punishment is above all a human debate and to simply banter statistics or attempt to categorize people along razor fine ethical lines is both dehumanizing and arrogant. A recent paper informs us that abolitionists tend to rely to a far greater extent on factual information than do the proponents of capital punishment. The latter take an almost exclusively <sup>emotional</sup> approach.<sup>4</sup> I wholeheartedly agree that public hysteria and misinformation are the root sources for the reemergence of this debate. Public education must then be central to the establishment and maintenance of a rational social policy.<sup>5</sup> However, if we overemphasize the statistical (however supportive) we may run the risk of simply reinforcing public detachment. Those who hang are not figures on a ledger, they are tortured flesh and strangled cries.

It is an emotional debate, and we should never forget the suffering of the innocent families of the offenders or how the modern executioners of France would revel in the "fun" of giving their "client's" hair a yank even as the guillotine blade fell across the pinioned victim's throat.<sup>6</sup>

Even as we hear Mr. Mulroney suggest there is a need to "transform back-benchers into, somebodies"<sup>7</sup> by reopening the execution debate, let us not forget such punishment is irrevocable and that Canadians have mistakenly hanged innocent men before. Let us never forget Donald Marshall. Let us never forget the Coffin case. Surely we need not kill Canadians to ensure some M.P.'s self-esteem.

In fairness, public fear is real enough. However, such fears are largely reactions to sensational cases of random violence and as such, lack perspective. In this context it must be noted that fully 90% of all murder victims were either directly related to or acquainted with the accused.<sup>8</sup>

Studies by Doob & Scott<sup>9</sup> have indicated "Canadians vastly overestimate the proportion of crime which involves violence." They cite that for 1981 three-fourths of respondents questioned estimated that at least 30% of all crime in Canada was violent. The true figure was 5.7%. Furthermore, the latest statistics (1984) reveal that murder constituted less

than 0.4% of this violent crime. Many proponents of the noose point too a dramatic increase in overall crime since the last hanging in 1962. They fail to report that the proportion of violent crime has only marginally increased (from 4.4% over the same period).<sup>10</sup> Violence is not running out of control.

As regards the special circumstance of police and prison guard homicide - there has been a slight decrease in the number of incidents over the years 1961 to 1983 and this, during a time when the police force doubled in size. There seems to be no force to the often repeated argument that the abolition of capital punishment has jeopardized our law officers.

Another common argument is that of deterrence. In this regard the figures are clear, "murderers make the best parolees."<sup>11</sup> The Solicitor General reports that of 382 convicted murderers paroled between 1970 and 1984 only 23 ever returned to prison - none for murder. Lifers are not the ravaging beasts so commonly portrayed on television; animals prevented from continuing their mayhem solely by the strength of stainless steel bars. It is quite irrational for the state to kill people simply to reassure the public that there will be no reoccurrence of a problem that never existed.

In my mind the deterrence argument has no force. For even if the facts could be mustered to support it, I would condemn it as a callous inhuman concept - dead wrong. We must never forget that the blood will not be on the state - it will be on human hands, your hands. Execution can only be viewed as an act of revenge, and I know of no Biblical equivocation which reads "thou shalt not kill, except as an act of spiteful vengeance".

Deterrence remains an argument of expediency and could equally be applied to armed robbery, break-and-enter or fraud. It has even been suggested that habitual criminals would be the most appropriate recipients of the noose. After all exceedingly few murders are committed with forethought and, as mentioned above, the murderer virtually never repeats (one conviction has been recorded since 1920).<sup>12</sup> It is not surprising then that researchers widely recognise that deterrence is of no significance in such cases. Furthermore, if you intend to execute the habitual criminal, such killings should be carried out in the most painful and barbaric manner and in full public view. This would surely impact strongly and perhaps even deter.

However, if an innocent victim was mistakenly convicted and subsequently killed, equality under the law should demand that those involved in the process (ie. judges, jurors, crown attorneys, arresting officers, et al) would forfeit their lives in turn. This may sound absurd, but why then will you not exercise <sup>the</sup> same humanity you demand from us? Is allowing a human being to live too much to ask?

The deterrence argument calls to mind a disturbing practice currently in vogue in Canadian Jurisprudence. The celebrated cases of Yves Trudeau and Cecil Kirby suggest that in Canada justice is indeed for sale. These men, confessed mass-murderers, received extraordinarily light sentences (as little as 7 years) in exchange for information. Is this deterrent? Is this public protection? If those who administer the Criminal Justice system are truly interested in deterring murder, why do they reward such behaviour? It flies in the face of any Canadian who truly desires a reduction in crime.

Recently, a new argument has arisen in the capital punishment debate - it pertains to the direction of sympathy. From Van Dalen's Playing With Peoples Lives:

"...execution cannot restore life or lessen the loss for the victim's family. It often draws attention away from victims and focuses attention on the person killed by the state, which merely causes more grief and sorrow for the family of the convicted individual."<sup>13</sup>

I find it impossible to believe that exacerbating the human suffering of innocents can ever

be justified as a legitimate role for the courts.

Finally, it has often been argued that public opinion is unreliable so long as it remains uninformed. Misinformation has led to the belief "that violent crime is seven times higher than it is; and that the murder rate has been increasing since 1976."<sup>14</sup> Neither assumption is true. Such misconceptions are generally based on widely publicized rates in the United States and on television programming.<sup>15</sup> However, the facts supporting the continuation of the abolition on capital punishment are clear.

We recognize that many Canadians feel fearful, outraged and frustrated. The Infinity Group believes these impressions arise largely from misinformation and that regardless of one's emotional condition, the mere demonstration of outrage and vengeance is in no way a justification for judicial murder.

People need to address their feelings and we do not wish to drown the issue in statistics - for this attempt would surely fail. We cannot guarantee catharsis or put the issue finally to rest, but we can argue against capital punishment both rationally and emotionally. As Clarence Darrow aptly put it:

"It is a question of how you feel, that is all. It is inside you. If you love the thought of somebody being killed, why, you are for it. If you hate the thought of somebody being killed, you are against it."<sup>16</sup>

- John Rives  
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Footnotes:

- 1) Ideas In The News: Death by Decree, 1985 CBC
- 2) VanDalen, Lynne Hilda: Playing With Peoples' Lives. Master's Thesis, 1986 Queen's University. (Gardiner: 1961)
- 3) Statistics Canada
- 4) Van Dalen 1986 (Scott: 1985)
- 5) ibid.
- 6) Camus, Albert: Reflections on the Guillotine.
- 7) CTV National News, Dec. 5/86
- 8) StatsCan: Justice Statistics Division, all figures unless otherwise noted
- 9) Doob, Anthony N. & Roberts, Julian V.; Crime: Some views of the Canadian Public University of Toronto 1982
- 10) Frattah; A study of the deterrent effect of Capital Punishment in Special Reference to the Canadian Situation (1972)
- 11) Van Dalen 1986
- 12) StatsCan
- 13) Van Dalen
- 14) ibid.
- 15) ibid.
- 16) ibid.