
argument against capital punishment Dud arguments

Posted by John Spragge - 2010/01/07 19:27

Once again, I present my periodic list of dud arguments. These represent my own opinion, tempered by consideration of some other people's opinions. Over the past few years, I have posted a number of arguments here from time to time, which I consider duds. I believe these dud arguments add heat but no light to the discussion of the issue (capital punishment) in question. Just to declare my interests: I come from an abolitionist country (Canada). All the evidence I have strongly suggests to me that abolition has worked very well for Canada, and I want to keep our laws as they stand now. I claim neither the right nor the competence to dictate to other countries. This forum relates to all countries. I support the criminal justice policies of mine, because of the data, which indicate that our policies (uniformly long sentences for murder) work better for us than the alternatives. But I accept the right of any sovereign, democratic country to set its own criminal justice policies. If I dislike their policies sufficiently, I'll stay away. I have tried fairly hard to post a relatively even-handed list; the duds come from both abolitionists and retentionists. Thanks to everyone (on either side of the issue) who have supported this effort.

Dud Arguments

- 1) Characterising capital punishment as barbaric This assumes a level of civilisation we have not yet attained. Singling out capital punishment ignores many equally nasty practises (such as imprisonment), which society uses to control criminals and attempt to discourage crime.
- 2) A defence of capital punishment based solely democratic sanction Democratic sanction implies that public support for a policy can withstand a debate such as this. Arguing that opponents of capital punishment ought not or need not make their case because voters have democratically supported capital punishment miss the point. That support remains valid as long as the voters have the right to hear all the reasons they should or should not change their minds, then act on their decision. The word democracy implies the voters have the right to change their minds, and as a result, change the law.
- 3) Attacking opponents for meddling in the affairs of other countries. This forum addresses capital punishment worldwide. It has equal relevance to the efforts to abolish capital punishment in the United States, and efforts to restore it in Canada or Europe.
- 4) Attacking opponents as elitists Opposing capital punishment does not make anyone an elitist. In virtually all countries that have abolished capital punishment, the abolitionist movement persuaded voters to elect legislator who then abolished capital punishment, and, at least in some cases, replaced it with criminal sanctions that proved more effective.
- 5) Claiming capital punishment makes us as bad as the murderer It doesn't surprise me that this argument offends proponents of capital punishment. Executing a person convicted under a capital statute existing at the time they committed the offence may amount to bad policy, or a mistake; but it does not make the state or the people as bad as the murderer.
- 6) Claiming opponents don't care about victims This claim assumes that capital punishment provides some material good for victims; something the record does not establish. The assumption that abstract justice somehow serves the interests of victims has even worse problems, since some victims have actively spoken out against capital punishment. Indeed, this argument offends, because it effectively hijacks the voice of the victims to serve the agenda of those who want capital punishment restored.
- 7) Claiming opponents love murderers The emotional attitude of opponents (or proponents) have little to do with the questions which determine whether or not capital punishment qualifies as a wise or just policy. If capital punishment saved innocent lives, then we would have an obligation to execute murderers, whatever we felt about them; if capital punishment cost innocent lives, we would have an obligation to refrain from it regardless of our feelings.
- 8) Claiming objective evidence could not make a case for capital punishment Some proponents claim that experience will never establish, for example, the number of lives capital punishment might have saved. Experience will never establish the effect of capital punishment with absolute certainty; just as the evidence on smoking will never establish the carcinogenic effects of smoking with absolute certainty. However, experience can clearly suggest one conclusion or another. If the experience on capital punishment does not show it saves any lives, that points up the limits of capital punishment, not the limitations of statistics.
- 9) Characterising opponents as fanatics, drooling rednecks, etc. If someone contributes nothing but insults to the debate (several posters here come to mind), then put them in your kill file, and get on with a dialog with someone who does have a rational contribution to make. Lumping everyone on the other side with the least reasonable just shuts down the debate.
- 10) Characterising the courts as infallible, attacking those who don't Some posters attack the people who question specific guilty verdicts. These verdicts include those against Mumia Abu-Jamal, Damien Echols, Carzell Moore, and so on. They seem to want us to believe the courts never make mistakes, and a guilty verdict makes the defendant guilty. I assume these people would not object to have a relative go out with O.J. Simpson; after all, the courts cleared him of murder. As long as they respect the evidence, people have not only a right, but a duty, to raise and publicise the questions about the guilt (or degree of guilt) of any person they have reason to believe the courts may have convicted unjustly or in error.
- 11) Conflating a democratic, legal use of capital punishment with fascism A democratic country can legally use capital punishment. Many of us doubt that any government, even a democracy, can justly administer capital punishment. We also note that experience raises serious questions about the wisdom of capital punishment.
- 12) Proposing ideal conditions under which capital punishment would work Some proponents of capital punishment claim it would work if only more people got executed, or if executions happened faster. Others point to countries, such as Saudi Arabia, where capital punishment does (according to them) work. Unfortunately, all these proposals assume either an unlimited budget for capital trials, or a revocation of democratic rights. Countries that inflict capital punishment swiftly and harshly enough to work have authoritarian governments, which constitute a greater threat to their citizens than the criminal element in any Western country.
- 13) Alleging sexual perversion on the part of one's opponents. A few abolitionists accuse retentionists of getting sadistic thrills from contemplating executions, while a couple of retentionists like to accuse abolitionists of a perverted attraction to murderers. Suffice it to say that until telepathy grows widely used and accepted, imputing particular motives to opponents will prove nothing and convince no one.
- 14) Ignoring unwelcome information. We had

a good example of this one in the past. One particular poster kept calling the high cost of capital punishment an urban legend, despite repeated posts giving at least three references for the relevant information, complete with references available on-line. Not everyone agrees that capital trials cost more than life sentences, although the preponderance of the evidence certainly suggests it does; but a claim with several citations to published works and studies does not, by definition, qualify as an urban legend. 15) Invoking common sense against observed facts. We sometimes see the argument that claim common sense establishes that capital punishment must deter murder, whatever the numbers tell us; or that a death sentence must cost more than life imprisonment, whatever the actual costs. Invoking common sense to ignore experience abuses the concept. Real common sense starts with observed facts and reasons from them. 16) Making assumptions about the personal experiences of the other side. People on both sides of this issue have personal experience with both victims and perpetrators. The if you only knew argument, as well as its close relative: I know whereof I speak, and I say... just won't wash. Often, the people on the other side do know; they simply reach different conclusions from this knowledge. 17) Dismissing innocent people wrongly convicted. A participant in the discussion once wrote that innocent people in danger of execution should just take it for the team. I shouldn't need to say anything more about this, but I will anyway: an innocent life threatened by a government bureaucracy that refuses to admit its errors has no less value than an innocent life lost to a predator. 18) Attacks on ivory tower academics. If their degrees mean nothing, you can refute what they say without recourse to attacks on their academic credentials. 19) Bandwagon arguments. Some abolitionists mention that few governments continue to execute people. Only the US, or only the US and Japan and Russia, and possibly a couple of other countries still execute people. The number of nations that execute does not matter; only the results obtained by jurisdictions that execute. It also applies to the argument about a trend toward the restoration of capital punishment. 20) Calling capital punishment racist. Racism should have absolutely no place in any justice system, whether the justice system in question practises capital punishment or not. Condemning capital punishment specifically on the grounds of racism suggests that a racist justice system can justifiably send people to prison for life. I consider handing out parking tickets in a

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Posted by John Rennie - 2010/01/07 19:27

but if does not make the state or the people as bad as the murderer. I can't find the 'IMHO', in there, John ... That's because there is no necessity to include it, Desmond. One of the many things that I enjoyed about this piece is that it did not include any of my 'verboden' words not only because there is no need for them but as soon as they are included (moral, immoral, right, wrong etc) the shit hits the fan.

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Posted by A Planet Visitor - 2010/01/07 19:27

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Posted by junglecomp - 2010/01/07 19:27

Very good summation. Cheers, Craig

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Posted by Peter Morris - 2010/01/07 19:27

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Posted by Peter Morris - 2010/01/07 19:27

own opinion, tempered by consideration of some other people's opinions. Welcome back, John. Its been a while. Where have you been?

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