The death penalty as a public health issue

James Welsh

The death penalty is dying in Europe. It is has been formally abolished in most states of the Council of Europe and while Russia, Ukraine and Albania have yet to ratify Protocol No. 6 to the European Convention on Human Rights (which commits states to abolition of the death penalty in peacetime) they nevertheless are not carrying out executions. However, half the countries of the world retain the death penalty and many put it into practice. Most executions are carried out in a small number of countries: in 1998 Amnesty International received reports of 1,067 executions in China, more than 100 executions in the Democratic Republic of Congo, 68 executions in the USA and 66 executions in Iran. These four countries alone accounted for 80% of all executions recorded by Amnesty International world-wide in that year. (The organisation also received reports of hundreds of executions in Iraq but was unable to confirm most of these reports.) The paradox of the death penalty is that it is focused in a small number of countries which have other human rights problems and yet it is also passionately favoured in countries which do not execute more than a handful of prisoners each year. Quite apart from the human rights critique which can be made against the death penalty, and these have been articulated by a number of authors, there are serious questions about the negative consequences for the public well-being from a public health perspective. The public health critique of the death penalty has three principal axes.

STATE APPROVAL OF VIOLENT MEASURES TO COMBAT CRIME

(Sometimes out of all proportion to the scale of the crime). Modern thinking on penology rejects the view of society as being a battleground between the state and criminals, each drawing on the tools of violence to assert their will. While punishment is a necessary tool for the state, other goals come into play, including the short and long term protection of the public. Short term protection can be accomplished by detention or other forms of restriction of the offender and longer term protection by rehabilitation or reform of the prisoner. Draconian measures such as the infliction of death are used in some repressive states and in some democracies, though this penalty can only be asserted to be an effective preventative tool if one regards removal of identified individuals as the essence of prevention. The encouragement of a climate in which revenge is emphasised as a goal of punishment, with alternate punishments being disregarded as inadequate, arguably acts as a barrier to adaptation to, and recovery from, the loss experienced by relatives of murder victims and does not instil in society a culture of the respect for life. Revenge may be sweet but it is clearly a low calorie substitute for the real thing, the prevention of violent crime and the protection of the public.

INvolvement of health professionals in the carrying out of the penalty

The application of medical skills to the apparatus of capital punishment undermines the ethical role of doctors and others in medical practice. Reports of physicians or other health professionals intimately assisting the state to bring about the death of a condemned prisoner conflicts with the public understanding of the health professional as healer. It is clear that the reason states like to involve doctors is both for their professional competence (and the traditional role in certifying death) but also from the symbolic value of their presence. The involvement of doctors in executions or in the processes directly leading to execution run counter to the ethical role of doctor as healer.

DIVERSION of public funding

In the USA (data is lacking elsewhere) the cost of executing prisoners is, counter-intuitively, higher than keeping them imprisoned for life. This is due to the high legal costs inherent in capital cases. The cost of a capital trial may be more than six times the cost of a non-capital murder trial and that the cost of a trial followed by 40 years’ imprisonment could cost one third the amount of total expenses involved in capital trial and subsequent imprisonment and execution of the convicted prisoner. The diversion of public funds to such unproductive ends at the expense of other penal expenses or social spending (including costs of more effective policing) represents a positively unhealthy expression of political priorities. The political reaction to cost factors, and the imperative to reduce such costs, risks pressure being brought to bear to bring about the truncation of appeals procedures and to dramatically shorten the period between arrest and subsequent conviction and execution, raising the possibility of miscarriages of justice.

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Guest editorial

In other countries applying the death penalty there is a lack of information on the relative costs of capital and non-capital punishment for murder or other serious crimes. It is clear that in some countries the lack of due process is likely to make the death penalty cheap, though at a high cost to the rule of law and to society.

In summary, a public health view of the death penalty would produce little to commend the punishment and a number of factors that would call it into question. The well-being of society requires, amongst other things, effective control of violence and crime. The encouragement of a climate of vengeance fails to achieve these ends at considerable financial expense and at the cost of roping in health professionals to achieve technically competent executions and provide a medical imprimatur.

NOTE

On 30 December 1999, the Ukrainian Constitutional Court declared the death penalty unconstitutional.

REFERENCES

1 Amnesty International. List of Abolitionist and Retentionist Countries, April 1999, Al Index: ACT 50/01/99.

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