Matters of Life & Death: End the Federal Death Penalty

By “Coach Vance” Trefethen

***Resolved: The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction***

Case Summary: This plan passes HR 262, the Federal Death Penalty Prohibition Act, a bill currently pending in Congress but not enacted. It terminates the use of the federal death penalty in the future and requires resentencing of existing federal death sentence prisoners. Note: “DP” = Death Penalty in this brief.

Matters of Life & Death: End the Federal Death penalty 3

OBSERVATION 1. DEFINITIONS 3

Significant 3

Reform 3

OBSERVATION 2. INHERENCY, the structure of the Status Quo. One simple fact: 3

The Federal Death Penalty. The federal government has a total of 58 inmates (54 civilians + 4 military) awaiting execution 3

OBSERVATION 3. HARMS. There are 3 ways the federal death penalty denies justice or carries bad side effects. 3

HARM 1. Racial discrimination. 3

The death penalty in America is unjust because it inherently involves racial discrimination 3

HARM 2. Justice violated by diminished capacity 4

The federal death penalty is applied improperly to those with diminished competency or mental illness 4

HARM 3. Risk to the innocent 4

The federal death penalty should be abolished because it risks executing someone who could later be proven innocent 4

OBSERVATION 4. We offer the following PLAN implemented by Congress and the President 4

OBSERVATION 5. ADVANTAGES 5

ADVANTAGE 1. Global influence for human rights 5

A. The Link: Eliminating the federal death penalty gives the US greater influence globally for human rights advocacy 5

B. The Impact: Protecting human rights. Fixing our image and improving cooperation with allies is key to protecting human rights globally and blocking Chinese repression 5

ADVANTAGE 2. Bad guys brought to justice 6

Dropping the death penalty enables and expedites recovering and prosecuting bad guys from overseas 6

2A Evidence: End Federal Death Penalty 7

BACKGROUND 7

Official summary of HR 262 - Federal Death Penalty Prohibition Act 7

Entire text of HR 262 Federal Death Penalty Prohibition Act 7

INHERENCY 8

Details on the FDPA (Federal Death Penalty Act of 1994) and procedures that implement the death penalty 8

A/T “Biden moratorium on carrying out federal executions” – Not enough and won’t solve. Need legislative ban 8

A/T “Biden moratorium on executions” – Not enough. Next President could come along and resume them 8

A/T “Mentally ill executed because they’re dangerous” – Tests and court procedures are flawed 9

HARMS / SIGNIFICANCE 9

Death penalty is imposed in an arbitrary fashion and with racial discrimination 9

Impossible to avoid risk of executing innocent defendants as long as we have the death penalty 9

Since DNA testing became available, we know for sure of 3 federal murder cases where an innocent man was convicted and later exonerated 10

China is assaulting human rights globally and the U.S., Europe and other countries need to respond to block it 10

China is actively undermining human rights globally 10

Countries refuse to extradite people for trial in the U.S. if death penalty under consideration. Example: European Union 11

Criminals increasingly know they can escape justice by crossing international borders 11

Extradition denied = Justice denied and crime increases 11

Extradition blocks justice: 6 year delay to extradite 2 brutal killers from Canada because Washington State had the DP 12

Federal death penalty is unjust in Puerto Rico because the trials are conducted only in English 12

SOLVENCY 13

A/T “Must have States on board to really solve” – States are getting on board. More than half have abolished the DP 13

A/T “Some murderers deserve the DP” – Maybe so, but doesn’t justify public policy. Life without parole is still better option 13

DISAD RESPONSES 13

A/T “They’ll get out of prison some day” – There is no federal parole. Congress abolished it in the 1980’s 13

A/T “DP deters crime” – Boroumand Center 11-country study: Murder rates went down after DP was abolished 14

A/T “DP deters crime” – DPIC Study: US states abolishing DP had no effect on murder rates or law enforcement safety 14

Law enforcement professionals agree: DP doesn’t reduce or deter crime 15

A/T “Closure for victims families” – DP doesn’t provide closure, doesn’t help the families 15

Matters of Life & Death: End the Federal Death penalty

Please join us in affirming that: The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction.

OBSERVATION 1. DEFINITIONS

Significant

Merriam Webster Online Dictionary copyright 2021. <https://www.merriam-webster.com/dictionary/significant> (accessed 26 June 2021)

2 a: having or likely to have [influence](https://www.merriam-webster.com/dictionary/influence#h1) or effect

Reform

Merriam Webster Online Dictionary copyright 2021 <https://www.merriam-webster.com/dictionary/reform> (accessed 28 May 2021)

**:**to put or change into an improved form or condition

OBSERVATION 2. INHERENCY, the structure of the Status Quo. One simple fact:

The Federal Death Penalty. The federal government has a total of 58 inmates (54 civilians + 4 military) awaiting execution

*Lisa N. Sacco 2020. (Analyst in Illicit Drugs and Crime Policy, Congressional Research Service) updated 1 Dec 2020 “The Federal Death Penalty”* [*https://fas.org/sgp/crs/misc/IN11474.pdf*](https://fas.org/sgp/crs/misc/IN11474.pdf) *(accessed 3 July 2021)*

From 1976 through November 30, 2020, the federal government executed 11 individuals, including 8 in 2020. As of that date, there are 54 inmates on federal death row. While the U.S. military justice system has capital punishment as a sentencing option, it has not executed anyone since 1961. As of April 2020, four individuals reside on the military’s death row.

OBSERVATION 3. HARMS. There are 3 ways the federal death penalty denies justice or carries bad side effects.

HARM 1. Racial discrimination.

The death penalty in America is unjust because it inherently involves racial discrimination

**Referring specifically in context to then-US Attorney General William Barr’s decision to carry out several federal executions, Ames Grawert said in 2019 QUOTE:**

Ames Grawert 2019 (attorney; senior counsel at the Brennan Center for Justice. Previously served as assistant district attorney(= a prosecutor) in the Appeals Bureau of the Nassau County District Attorney’s Office) 7 Aug 2019 For Years, the Federal Death Penalty Has Been a Thing of the Past. That’s Where It Should Stay. <https://www.brennancenter.org/our-work/analysis-opinion/years-federal-death-penalty-has-been-thing-past-thats-where-it-should> (brackets added) (accessed 3 July 2021)

History has vindicated [Supreme Court Justice William] Brennan’s concerns about racial discrimination, too. According to the American Civil Liberties Union, people of color [represent 55 percent of individuals on death row](https://www.aclu.org/other/race-and-death-penalty). More recent research in [North Carolina](file:///C%3A%5CUsers%5Cbellj%5CAppData%5CLocal%5CMicrosoft%5CWindows%5CINetCache%5CContent.Outlook%5CUKHVYZPN%5Co%09https%3A%5Cmsutoday.msu.edu%5Cnews%5C2016%5Care-death-row-cases-plagued-with-racial-bias) and [California](https://www.aclunc.org/publications/racial-and-geographic-disparities-california%E2%80%99s-death-penalty) confirm what we’ve known [since at least 1990](https://www.gao.gov/products/GGD-90-57): race helps decide who faces death and who doesn’t. People who have killed white victims are significantly more likely to face the death penalty. This research throws into doubt the very idea that we can fairly administer the death penalty in this country.   But it is glossed over — indeed, reinforced — by Barr’s decision.

HARM 2. Justice violated by diminished capacity

**While all must take responsibility for their actions, justice requires the degree of responsibility and degree of punishment should be proportional. Many states have recognized this in their application of the death penalty, but unfortunately…**

The federal death penalty is applied improperly to those with diminished competency or mental illness

**Referring in context to the case of Lisa Montgomery, the only female prisoner under a federal death sentence, Jackie Fielding said in 2021 QUOTE:**

Jackie Fielding 2021. (J.D.; Robina Public Interest Scholar Fellow and Counsel with the Brennan Center for Justice) 11 Jan 2021 ‘The Most Broken of the Broken’ <https://www.brennancenter.org/our-work/analysis-opinion/most-broken-broken> (accessed 4 July 2021)

Although youth and intellectual disabilities can serve as bars against a death sentence, the [Supreme Court has yet to rule](https://www.aclu.org/files/pdfs/capital/mental_illness_may2009.pdf) that mental illness, even severe cases, make capital punishment unconstitutional. (Still, [several](https://deathpenaltyinfo.org/state-and-federal-info/state-by-state/connecticut) [state](https://deathpenaltyinfo.org/state-and-federal-info/state-by-state/delaware) [courts](https://deathpenaltyinfo.org/state-and-federal-info/state-by-state/washington) have found the death penalty unconstitutional under state constitutions.) Yet many [factors](https://www.aclu.org/files/pdfs/capital/mental_illness_may2009.pdf) — such as vulnerability to police intimidation, legal “competency” to stand trial, and the ability to form the requisite criminal intent to warrant a capital offense — weigh in favor of protecting those who are seriously mentally ill from being sentenced to death. Moreover, special issues are at play when women are on death row. Like Lisa, most women executed in the United States have histories of [physical, sexual, and/or child abuse](http://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf), and many came from poverty.

HARM 3. Risk to the innocent

The federal death penalty should be abolished because it risks executing someone who could later be proven innocent

Rep. Alcee Hastings 2021 (member of Congress from Florida; former chair of *the U.S. Commission on Security and Cooperation in Europe; former president of the Organization for Security & Cooperation in Europe (OSCE) Parliamentary Assembly; co-sponsor of HR 262*) 30 March 2021 “It's time to abolish the federal death penalty” (accessed 4 July 2021) <https://thehill.com/blogs/congress-blog/lawmaker-news/545581-its-time-to-abolish-the-federal-death-penalty>

Most recently, Virginia legislators voted in February to end the death penalty. Upon introducing the legislation, Gov. Ralph Northam noted racial disparities and cited the case of Earl Washington, a man who came nine days away from being executed but was cleared by DNA evidence not available at his trial. Washington was eventually pardoned by then-Gov. Jim Gilmore — most recently the U.S. Ambassador to the OSCE — who saved an innocent man from irreparable injustice. Now it is time for Congress to end the death penalty at the federal level.

OBSERVATION 4. We offer the following PLAN implemented by Congress and the President

1. Congress passes HR 262, the Federal Death Penalty Prohibition Act. It does 2 things:
 1) Prohibits all future death penalty sentences for federal crimes.
 2) Requires re-sentencing of all federal prisoners currently under a death sentence.

2. Funding through existing budgets of existing agencies and general federal revenues.
3. Enforcement through the Justice Department and the federal courts.
4. Timeline: Plan takes effect one day after an affirmative ballot.
5. All Affirmative speeches may clarify

OBSERVATION 5. ADVANTAGES

ADVANTAGE 1. Global influence for human rights

A. The Link: Eliminating the federal death penalty gives the US greater influence globally for human rights advocacy

Rep. Alcee Hastings 2021 (member of Congress from Florida; former chair of *the U.S. Commission on Security and Cooperation in Europe; former president of the Organization for Security & Cooperation in Europe (OSCE) Parliamentary Assembly*) 30 March 2021 “It's time to abolish the federal death penalty” (accessed 4 July 2021) <https://thehill.com/blogs/congress-blog/lawmaker-news/545581-its-time-to-abolish-the-federal-death-penalty>

Perhaps most importantly, the United States has publicly and repeatedly committed to preserving human rights and fundamental freedoms for all people, through our membership in the Organization for Security and Cooperation in Europe and elsewhere. The death penalty simply cannot be reconciled with these promises to value and protect democracy, the rule of law and impartial justice. By eliminating the federal death penalty, Congress can demonstrate that the United States is once again a nation that lives up to our values and our promises to make the world better and lead by example — an opportunity met with derision by the last administration. No other human rights concern is raised more consistently with the United States by our European allies than the death penalty, which our closest friends compare to torture. [According to the European Union](https://www.osce.org/files/f/documents/f/2/444604.pdf), the death penalty is “the ultimate cruel, inhuman and degrading punishment.” Nearly every other country in the OSCE region — even [Russia](https://www.reuters.com/article/idUSLJ330478) and [Turkey](https://www.dw.com/en/turkey-to-abolish-the-death-penalty/a-603163) — has repealed or established moratoria on capital punishment. Among the OSCE’s 57 participating States, only two still impose a judicial sanction of death: the United States and [Belarus](https://www.bbc.com/news/world-europe-43799280).

B. The Impact: Protecting human rights. Fixing our image and improving cooperation with allies is key to protecting human rights globally and blocking Chinese repression

Suzanne Nossel 2020. (CEO of PEN America. She was formerly deputy assistant secretary of state for international organizations at the U.S. State Department) How to Stop the Export of Authoritarianism 5 Oct 2020 <https://foreignpolicy.com/2020/10/05/how-to-stop-the-export-of-authoritarianism/> (accessed 4 July 2021)

By taking on timely issues that affect individual lives, human rights proponents can put Chinese diplomats on the defensive, forcing it to expend political capital and choose its battles—making it harder for Beijing to water down and manipulate the human rights system. Success will depend upon creating broad coalitions willing to stand up to Beijing’s intrusions. Rights-respecting leaders in democracies such as Germany, Canada, and Japan, among others, can augment these efforts, with broad cross-regional coalitions lending legitimacy that prevents Beijing from casting the battle as great-power rivalry. With the United States’ own human rights record now so tarnished, countries with strong credibility as human rights standard-bearers should lead the charge against new Chinese multilateral initiatives or resolutions. The United States, for its part, will need to forge intimate collaborations among its own human rights experts, diplomats, and regional bureaus and embassies. Beijing’s aims and tactics should lead policymakers to make multilateral human rights advocacy a central concern, rather than the afterthought it has traditionally been. As China’s strength and influence intensify, it’s not an exaggeration to suggest that the future of human rights and democracy globally may hang in the balance. Only a broad-scale effort can ensure that Beijing’s rise does not bring with it an upsurge in global repression.

ADVANTAGE 2. Bad guys brought to justice

Dropping the death penalty enables and expedites recovering and prosecuting bad guys from overseas

Rep. Alcee Hastings 2021 (member of Congress from Florida; former chair of *the U.S. Commission on Security and Cooperation in Europe; former president of the Organization for Security & Cooperation in Europe (OSCE) Parliamentary Assembly*) 30 March 2021 “It's time to abolish the federal death penalty” (accessed 4 July 2021) <https://thehill.com/blogs/congress-blog/lawmaker-news/545581-its-time-to-abolish-the-federal-death-penalty>

The values gap between America and our allies has consequences. For example, other NATO members will not send criminal suspects here if they face capital punishment. Last October, the United States secured the long-sought extradition from Britain of two alleged ISIS terrorists only once the U.S. Department of Justice finally agreed not to pursue a sentence of death.

2A Evidence: End Federal Death Penalty

BACKGROUND

Official summary of HR 262 - Federal Death Penalty Prohibition Act

Congressional Research Service 2021. (non-partisan research agency of Congress) Summary of HR262 <https://www.congress.gov/bill/117th-congress/house-bill/262> (accessed 4 July 2021)



Entire text of HR 262 Federal Death Penalty Prohibition Act

Text of HR 262 2021. (official website of Congress) Text of HR262 <https://www.congress.gov/bill/117th-congress/house-bill/262/text> (accessed 4 July 2021)



INHERENCY

Details on the FDPA (Federal Death Penalty Act of 1994) and procedures that implement the death penalty

Lisa N. Sacco 2020. (Analyst in Illicit Drugs and Crime Policy, Congressional Research Service) updated 1 Dec 2020 “The Federal Death Penalty” <https://fas.org/sgp/crs/misc/IN11474.pdf> (accessed 3 July 2021)

DOJ’s death penalty procedure is based on the FDPA, and is codified at 18 U.S.C. Sections 3591 to 3599. The decision to seek or not seek the death penalty must be considered by the Attorney General’s Review Committee on Capital Cases with input from the DOJ, Capital Case Section, and approved by the Attorney General. As outlined in the U.S. Code, murder is a federal capital offense if committed under a number of jurisdictional and/or aggravating circumstances. A few federal capital crimes, including espionage and treason, do not (necessarily) involve an individual causing the death of another, but DOJ has not sought the death penalty for a crime other than murder since enactment of the FDPA. All current federal death row inmates were sentenced to death for murder of varying degrees and types, the most common being drug-related killings. One comparatively recent addition to federal death row is Dylann Roof, who killed nine parishioners at a Charleston, SC, church in 2015. Roof, among other crimes, was convicted of nine counts of using a firearm to commit murder and nine counts of obstruction of religious exercise resulting in death, both of which are punishable by death.

A/T “Biden moratorium on carrying out federal executions” – Not enough and won’t solve. Need legislative ban

Alana Wise 2021 (journalist with National Public Radio) 1 July 2021 “The Justice Department Is Pausing Federal Executions After They Resumed Under Trump” <https://www.npr.org/2021/07/01/1012366520/the-justice-department-is-pausing-federal-executions-after-they-resumed-under-tr> (brackets added) (accessed 3 July 2021)

President Biden, who nominated [Attorney General Merrick] Garland to the top law enforcement post, opposes capital punishment. During his campaign, Biden pledged to pass legislation to end the federal death penalty. Some congressional Democrats have been working on such legislation, but no action has been taken. Some progressives and activists opposed to capital punishment had been expressing frustration that they have not seen more movement on the issue from Biden. "A moratorium on federal executions is one step in the right direction, but it is not enough," said Ruth Friedman, director of the Federal Capital Habeas Project. "We know the federal death penalty system is marred by racial bias, arbitrariness, over-reaching, and grievous mistakes by defense lawyers and prosecutors that make it broken beyond repair." Friedman said Biden should commute all federal death sentences, warning that a pause alone "will just leave these intractable issues unremedied and pave the way for another unconscionable bloodbath like we saw last year."

A/T “Biden moratorium on executions” – Not enough. Next President could come along and resume them

Associated Press 2021. “Biden pressed to end federal death penalty” 8 Feb 2021 (accessed 5 July 2021) <https://www.theindianalawyer.com/articles/biden-pressed-to-end-federal-death-penalty>

Biden can guarantee no federal executions during his presidency by simply telling the Justice Department never to schedule any. But that would not prevent a future president who supports capital punishment from restarting them. Barack Obama, for whom Biden served as vice president, did place an informal moratorium on carrying out federal executions when he was president, ordering a review of execution methods in 2014 after a botched state execution in Oklahoma. But Obama never took any steps toward ending federal executions for good. That left the door open for Trump to resume them. Death penalty critics want Biden to slam shut that door.

A/T “Mentally ill executed because they’re dangerous” – Tests and court procedures are flawed

Death Penalty Information Center 2020. (national non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment) STUDIES — Junk Psychological Science Continues to Infect Death-Penalty Determinations 2 Apr 2020  <https://deathpenaltyinfo.org/news/studies-junk-psychological-science-continues-to-infect-death-penalty-determinations> (brackets in original) (accessed 5 July 2021)

Courts are failing badly in keeping junk psychological science out of the courtroom in criminal cases, permitting the admission of psychological tests that have never been reviewed for reliability and others that have been found unreliable, a recent study reports. Among the problematic tests, another group of psychologists write, is a “psychopathy checklist” commonly used by prosecutors to argue that a defendant poses a future danger to society and should be sentenced to death. The article, *Psychological Assessments in Legal Contexts: Are Courts Keeping “Junk Science” Out of the Courtroom?*, which was published February 15, 2020 in the Association of Psychological Science journal, *Psychological Science in the Public Interest*, looked at 364 psychological assessment tools psychologists reported having used in legal cases. It found that nearly a quarter of the tests were considered unreliable, one-third lacked general acceptance in the field of psychology, “and only about 40% ha[d] generally favorable reviews of their psychometric and technical properties.” Yet, the researchers wrote, legal challenges to the tests were raised in only 5.1% of the 876 state and federal cases reviewed in which the evidence was presented, and those challenges failed about two-thirds of the time. “There’s a lot of stuff that looks like it’s junk and should be filtered out by the courts, but it’s not being filtered out,” said Arizona State University psychology professor Tess Neal, the lead author of the study.

HARMS / SIGNIFICANCE

Death penalty is imposed in an arbitrary fashion and with racial discrimination

Ames Grawert 2019 (attorney; senior counsel and John L. Neu Justice Counsel at the Brennan Center for Justice. Previously served as an assistant district attorney(= a prosecutor) in the Appeals Bureau of the Nassau County District Attorney’s Office) 7 Aug 2019 For Years, the Federal Death Penalty Has Been a Thing of the Past. That’s Where It Should Stay. <https://www.brennancenter.org/our-work/analysis-opinion/years-federal-death-penalty-has-been-thing-past-thats-where-it-should> (accessed 3 July 2021) (Furman v. Georgia and McClesky v. Kemp were Supreme Court cases involving the death penalty. “Brennan” was Supreme Court Justice William Brennan)

“When the punishment of death is inflicted in a trivial number of the cases in which it is legally available,” he wrote in [Furman v. Georgia](https://www.oyez.org/cases/1971/69-5030), “the conclusion is virtually inescapable that it is being inflicted arbitrarily. Indeed, it smacks of little more than a lottery system.” Brennan also believed that this arbitrariness disguised racial discrimination: “murder defendants in Georgia with white victims are more than four times as likely to receive the death sentence as are defendants with black victims,” he wrote in [McClesky v. Kemp](https://www.oyez.org/cases/1986/84-6811%22%20%5Ct%20%22_blank).

Impossible to avoid risk of executing innocent defendants as long as we have the death penalty

Death Penalty Information Center 2021. (national non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment) “Innocence” (article is undated but contains references to material in 2021) <https://deathpenaltyinfo.org/policy-issues/innocence> (accessed 5 July 2021)

It is now clear that innocent defendants will be convicted and sentenced to death with some regularity as long as the death penalty exists. It is unlikely that the appeals process—which is mainly focused on legal errors and not on factual determinations—will catch all the mistakes. Reforms have been begrudgingly implemented, increasing both the costs and the time that the death penalty consumes, but have not been sufficient to overcome human error. The popularity and use of capital punishment have rapidly declined as the innocence issue has gained attention. The remaining question is how many innocent lives are worth sacrificing to preserve this punishment.

Since DNA testing became available, we know for sure of 3 federal murder cases where an innocent man was convicted and later exonerated

Kayleigh E. McGlynn 2019 (attorney) 25 Feb 2019 Remedying Wrongful Convictions Through DNA Testing: Expanding Post-Conviction Litigants ’ Access to DNA Database Searches to Prove Innocence, BOSTON COLLEGE LAW REVIEW <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=3743&context=bclr>

Most DNA exonerations are rape and rape-murder cases because these are the types of cases where it is common for the perpetrator to leave biological evidence at the crime scene, whereas biological evidence is less common in other types of cases, such as robbery cases, for instance. See GARRETT, supra note 28, at 5 (explaining that, out of the first 250 DNA exonerations, the most common crimes were rape, rape-murder, and murder, whereas other crimes, like robbery, were much less common); id. at 12 (stating that DNA is not present at the scenes of most crimes but has been present at the scenes of rapes); id. at 263 (stating that DNA testing is typically performed in rape cases, and DNA exonerations are usually rape and rape-murder cases); id. at 271 (explaining that DNA testing is not usually possible in cases involving crimes like robbery); DNA Exonerations Database, supra note 30 (filter by “Trial Info;” then filter by “Types of Evidence at Trial;” then filter by “Forensic Evidence”) (showing that forensic evidence was present at trial in 253 (72%) of 350 DNA exonerations). DNA, however, was not present in either the three federal murder wrongful conviction cases or the five federal sexual assault wrongful conviction cases. Exonerations in the United States, supra note 27 (select “Federal” next to “Fed/Non-Fed” to filter for federal cases; then select “Present” next to “DNA” to filter for cases involving DNA, or select “Murder” under “Crime” to filter for murder cases, or select “Sexual Assault” under “Crime” to filter for sexual assault cases). The majority of federal exonerations have been for other crimes, such as fraud, drug crimes, and conspiracy.

China is assaulting human rights globally and the U.S., Europe and other countries need to respond to block it

Suzanne Nossel 2020. (CEO of PEN America. She was formerly deputy assistant secretary of state for international organizations at the U.S. State Department) How to Stop the Export of Authoritarianism 5 Oct 2020 <https://foreignpolicy.com/2020/10/05/how-to-stop-the-export-of-authoritarianism/> (accessed 4 July 2021)

While pressuring countries and companies to subscribe to its authoritarian alternative to the international human rights system, Chinese envoys are simultaneously working from within that system to hollow it out. The breadth of Beijing’s assault on the international human rights system demands a response from the United States, Europe, and other rights-respecting countries. A passive, defensive posture—that is, a continuation of the status quo—will allow Beijing to proceed apace, renovating the international human rights system to a point where it may be unrecognizable.

China is actively undermining human rights globally

Suzanne Nossel 2020. (CEO of PEN America. She was formerly deputy assistant secretary of state for international organizations at the U.S. State Department) How to Stop the Export of Authoritarianism 5 Oct 2020 <https://foreignpolicy.com/2020/10/05/how-to-stop-the-export-of-authoritarianism/> (accessed 4 July 2021)

China is not just working to undercut human rights norms, but also to remake them. At the U.N. Security Council, Beijing has blocked the protection of civilians in Syria, Rohingyas in Myanmar, and victims of abuses in Venezuela. During U.S. President Donald Trump’s tenure in office, Beijing has taken advantage of the United States’ withdrawal from the U.N. Human Rights Council to expand its own influence. On the council, Beijing has sought to instill norms that uphold its own sovereignty at the expense of basic human rights norms. CCP catchphrases such as “shared future” and “mutual respect”—code words for silencing criticism—have managed to worm their way into the council’s texts. As China’s network of bilateral relationships expands, its ability to marshal votes behind its agenda grows. China is now also a member of the U.N. Human Rights Council’s Consultative Group, which selects candidates for key U.N. roles; its presence ensures that these appointments do not defy Beijing. While pressuring countries and companies to subscribe to its authoritarian alternative to the international human rights system, Chinese envoys are simultaneously working from within that system to hollow it out.

Countries refuse to extradite people for trial in the U.S. if death penalty under consideration. Example: European Union

Yuanchi Jia 2020. (PhD candidate, Univ. of Lancaster) Sept 2020 Extradition and the Death Penalty: Reconsidering the Margin of Appreciation under Article 2 of the European Convention on Human Rights <https://eprints.lancs.ac.uk/id/eprint/147799/1/2020YuanchiJiaPhD.pdf> (accessed 4 July 2021)

In the Agreement on Extradition between the European Union and the United States of America, it reads as Where the offence for which extradition is sought is punishable by death under the laws in the requesting State and not punishable by death under the laws in the requested State, the requested State may grant extradition on the condition that the death penalty shall not be imposed on the person sought, or if for procedural reasons such condition cannot be complied with by the requesting State, on condition that the death penalty if imposed shall not be carried out. If the requesting State accepts extradition subject to conditions pursuant to this Article, it shall comply with the conditions. If the requesting State does not accept the conditions, the request for extradition may be denied.

Criminals increasingly know they can escape justice by crossing international borders

Yuanchi Jia 2020. (PhD candidate, Univ. of Lancaster) Sept 2020 Extradition and the Death Penalty: Reconsidering the Margin of Appreciation under Article 2 of the European Convention on Human Rights <https://eprints.lancs.ac.uk/id/eprint/147799/1/2020YuanchiJiaPhD.pdf> (accessed 4 July 2021)

In today’s globalised world with much easier and more ubiquitous cross-border movement, the physical state borders are becoming much more ‘invisible’. It is reputed that states are confronted with increasingly severe internal and external security threats from various aspects, which are no longer delimited by state borders and challenges would arise when the perpetrator or the crime is of a transnational nature. What is more, criminals are offered much more opportunities than before to escape from justice by getting to other countries. This is the fact that Neil Boister describes as ‘for criminals engaging in trans-national crime in the unembellished sense of cross-border crime, borders are part of their business.’ Against this background, states increasingly recognise that crimes with transnational nature and effect call for a transnational solution to respond in a high-efficiency, straightforward and universally applicable manner. The necessity of combating transnational crime, promoting justice as well as eliminating the security threats and safeguarding the national interests has propelled states to embark on bilateral and multilateral judicial cooperation in various forms.

Extradition denied = Justice denied and crime increases

Yuanchi Jia 2020. (PhD candidate, Univ. of Lancaster) Sept 2020 Extradition and the Death Penalty: Reconsidering the Margin of Appreciation under Article 2 of the European Convention on Human Rights <https://eprints.lancs.ac.uk/id/eprint/147799/1/2020YuanchiJiaPhD.pdf> (accessed 4 July 2021)

States that facilitate negotiation and conclusion of extradition treaties is often treated as a trade-off for diplomatic, business and economic benefits. Nevertheless, its role in international criminal cooperation to combating transnational crime should by no means be underestimated. Simply put, extradition is seen as a win-win choice for both participating states. Extradition provides a formal channel whereby the fugitive criminal can be legitimately brought to the state enforcing its criminal jurisdiction. For this reason, extradition serves as a useful tool in fighting against impunity, and then, the objectives of the suppression of crime and the guarantee of criminal jurisdiction of the commitment state can be largely realised.

Extradition blocks justice: 6 year delay to extradite 2 brutal killers from Canada because Washington State had the DP

Prof. Peter Bowal and Preet Saini 2015. (Bowal is a professor of law at Univ. of Calgary, Canada. Saini is a law student at Univ. of Calgary, Canada) 7 May 2015 “Whatever Happened To…U.S. v. Burns: Extradition and the Death Penalty” <https://www.lawnow.org/whatever-happened-us-v-burns-extradition-death-penalty/> (brackets added; ellipses in original) (accessed 5 July 2021)

Before they could be arrested, Rafay and Burns, both Canadian citizens, bolted to Vancouver and started spending Rafay’s inherited money.  The family estate was valued at a half million dollars and life insurance pushed that higher. The teens confessed to RCMP [Royal Canadian Mounted Police] in B.C. [British Columbia] through an elaborate “Mr. Big” sting.  Burns bragged about stripping down to his underwear in order to wash off the blood before doing the baseball bat bludgeoning.  The violent force spattered blood on all four walls and the ceiling.  The parents were beaten to death in their bedroom.  Asked why he wanted his own family dead, Rafay said, “I felt it was a necessary sacrifice… to achieve what I wanted in this life.”  The Crown believed they killed for the money.  Burns participated in exchange for a share of the money. With the Rafay and Burns confessions in hand, proceedings to extradite them to face trial in Washington began.   This took six years (including two years and two re-hearings at the Supreme Court of Canada) to change the Canadian law of extradition for criminals facing the death penalty in the United States.

Federal death penalty is unjust in Puerto Rico because the trials are conducted only in English

Harvard Law Review 2017. “The International Place of Puerto Rico” April 2017 Volume 130 No. 6 (accessed 4 July 2021) (Note: Harvard Law Review does not identify the individual authors of many of its articles) (brackets added) <https://books.google.com/books?id=gpOjDgAAQBAJ&pg=PT143&lpg=PT143&dq=federal+%22death+penalty%22+%22puerto+rico%22+jury+Acosta+%22not+guilty%22&source=bl&ots=B5ysPfYe4C&sig=ACfU3U1CPladd7GBURjNpHMIXwSh0hIAHQ&hl=en&sa=X&ved=2ahUKEwjXnYGbrsrxAhXXkGoFHWTYA_cQ6AEwB3oECBUQAw#v=onepage&q=federal%20%22death%20penalty%22%20%22puerto%20rico%22%20jury%20Acosta%20%22not%20guilty%22&f=false>



SOLVENCY

A/T “Must have States on board to really solve” – States are getting on board. More than half have abolished the DP

Rep. Alcee Hastings 2021 (member of Congress from Florida; former chair of *the U.S. Commission on Security and Cooperation in Europe; former president of the Organization for Security & Cooperation in Europe (OSCE) Parliamentary Assembly*) 30 March 2021 “It's time to abolish the federal death penalty” (accessed 4 July 2021) <https://thehill.com/blogs/congress-blog/lawmaker-news/545581-its-time-to-abolish-the-federal-death-penalty>

Ending the death penalty should be part of comprehensive justice reform in the United States and part of our current reckoning with racial inequality. More than half of the states across our nation have abolished the death penalty or halted executions. Most recently, Virginia legislators voted in February to end the death penalty.

A/T “Some murderers deserve the DP” – Maybe so, but doesn’t justify public policy. Life without parole is still better option

James Abbott, Antonio Cluny, Bob Denmark and Ronald Hampton 2011. (Abbott, police chief of West Orange, N.J. Cluny, senior attorney general and public prosecutor in Portugal. Denmark, a 30-year veteran of the British police force and a former detective superintendent of Lancashire Constabulary, England. Hampton, executive director of the National Black Police Association International Leadership Institute and 23-year veteran of the Washington D.C. Police Dept) 8 Jan 2011 “**Opinion: Police officials argue death penalty doesn’t make us safer”** <https://deathpenaltyinfo.org/news/new-voices-police-officials-argue-death-penalty-doesnt-make-us-safer> (accessed 5 July 2021)

Do some murderers deserve the death penalty? Maybe so, but that is an emotional reaction. It is not the basis for creating public policy or finding the best ways to keep citizens safe. More states should follow New Jersey’s lead, and the example of 15 U.S. states, repeal the death penalty, and adopt life without parole in its place. As a growing number of Americans recognize, life without parole is a harsh punishment, protects the public, and eliminates the risk of an irreversible mistake, while freeing up funds for more effective crime-fighting programs. This is a better way to serve victims’ families and prevent violence.

DISAD RESPONSES

A/T “They’ll get out of prison some day” – There is no federal parole. Congress abolished it in the 1980’s

Federal Bureau of Prisons 2020 (federal agency that manages federal prisons) “A storied past” <https://www.bop.gov/about/history/> (accessed 27 June 2021) (article is undated but internally references
“more than 90 years” since the Bureau of Prisons was established in May 1930)

As a result of Federal law enforcement efforts and new legislation that dramatically altered sentencing in the Federal criminal justice system, the 1980's brought a significant increase in the number of Federal inmates. The Sentencing Reform Act of 1984 established determinate sentencing, abolished parole, and reduced good time; additionally, several mandatory minimum sentencing provisions were enacted in 1986, 1988, and 1990.

A/T “DP deters crime” – Boroumand Center 11-country study: Murder rates went down after DP was abolished

Death Penalty Information Center 2019. (national non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment) Study: International Data Shows Declining Murder Rates After Abolition of Death Penalty 3 Jan 2019 <https://deathpenaltyinfo.org/news/study-international-data-shows-declining-murder-rates-after-abolition-of-death-penalty> (accessed 5 July 2021)

Nations that abolish the death penalty then tend to see their murder rates decline, according to a December 2018 report by the Abdorrahman Boroumand Center, a Washington, DC-based organization that promotes human rights and democracy in Iran. The report examined murder rates in 11 countries that have abolished capital punishment, finding that ten of those countries experienced a decline in murder rates in the decade following abolition. Countries were included if they met the following criteria: they had formally abolished the death penalty at least ten years ago, at least one death sentence had been imposed or carried out in the decade prior to abolition, and murder rate data was available from the World Trade Organization. The countries that met the study’s criteria were Azerbaijan, Bulgaria, Poland, Serbia, Estonia, Latvia, Ukraine, South Africa, Kyrgyzstan, Georgia, and Albania. (Click image to enlarge.) The researchers compared murder rates in the ten years after abolition of the death penalty to the baseline rate in the year of abolition. Six of the abolitionist countries experienced murder rates below the baseline all ten years following abolition. Four countries had either one or two years in which murder rates were higher than in the year of abolition, but saw murders fall below the baseline within five years and experienced overall downward trends. Only one country in the study, Georgia, saw murder rates trend upwards in the decade following abolition. One decade after abolition, the murder rates in these countries declined by an average of six murders per 100,000 population. The authors conclude, “Death penalty advocates’ fears that the state relinquishing the ultimate punishment will embolden potential criminals, or at least weaken deterrence, prove to be unfounded in light of this evidence.”

A/T “DP deters crime” – DPIC Study: US states abolishing DP had no effect on murder rates or law enforcement safety

**[In context, “the data” in the opening sentence is data from the Boroumand Study in the card above]**

Death Penalty Information Center (DPIC) 2019. (national non-profit organization serving the media and the public with analysis and information on issues concerning capital punishment) Study: International Data Shows Declining Murder Rates After Abolition of Death Penalty 3 Jan 2019 <https://deathpenaltyinfo.org/news/study-international-data-shows-declining-murder-rates-after-abolition-of-death-penalty> (accessed 5 July 2021)

The data is consistent with state-level data in the United States, which has repeatedly shown lower murder rates in states that do not have the death penalty than in states that do and that the presence or absence of the death penalty does not appear to affect murder trends. A [2017 DPIC analysis](https://deathpenaltyinfo.org/Does_The_Death_Penalty_Deter_Murder_or_Protect_Police) found that abolishing the death penalty had no measurable effect on murder rates in general or the rate at which police officers are killed, contradicting popular arguments that the death penalty is necessary for public safety and to protect law enforcement officials.

Law enforcement professionals agree: DP doesn’t reduce or deter crime

James Abbott, Antonio Cluny, Bob Denmark and Ronald Hampton 2011. (Abbott, police chief of West Orange, N.J. Cluny, senior attorney general and public prosecutor in Portugal. Denmark, a 30-year veteran of the British police force and a former detective superintendent of Lancashire Constabulary, England. Hampton, executive director of the National Black Police Association International Leadership Institute and 23-year veteran of the Washington D.C. Police Dept) 8 Jan 2011 “**Opinion: Police officials argue death penalty doesn’t make us safer”** <https://deathpenaltyinfo.org/news/new-voices-police-officials-argue-death-penalty-doesnt-make-us-safer> (accessed 5 July 2021)

We recently came together in Washington, D.C., for the first international dialogue among law enforcement professionals about the death penalty and found important areas of agreement. Europe has abandoned the death penalty, but European countries have lower murder rates and higher rates of solving homicides than the United States. In the United States, states with the death penalty generally have higher murder rates than states without it. For example, southern states have the highest murder rates and account for 82 percent of all U.S. executions. The deterrence argument is weak and it goes against our experience investigating serious crimes: the majority of offenders do not think through the consequences of their actions. In fact, they do not think they will ever be caught.

A/T “Closure for victims families” – DP doesn’t provide closure, doesn’t help the families

James Abbott, Antonio Cluny, Bob Denmark and Ronald Hampton 2011. (Abbott, police chief of West Orange, N.J. Cluny, senior attorney general and public prosecutor in Portugal. Denmark, a 30-year veteran of the British police force and a former detective superintendent of Lancashire Constabulary, England. Hampton, executive director of the National Black Police Association International Leadership Institute and 23-year veteran of the Washington D.C. Police Dept) 8 Jan 2011 “**Opinion: Police officials argue death penalty doesn’t make us safer”** <https://deathpenaltyinfo.org/news/new-voices-police-officials-argue-death-penalty-doesnt-make-us-safer> (accessed 5 July 2021)

U.S. politicians sometimes argue that the death penalty is needed to deter the killing of police officers. But if one of us were murdered, we would not want the perpetrator to receive the death penalty. The most important thing would be taking care of our families and helping them heal. We have seen how painful it is for families to go through years of death penalty trials and appeals and that would be the last thing we would want for our own families. The idea that the death penalty provides “closure” for victims’ families is a myth.