

## Against The Death Penalty

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## A Wild Justice: The Death and Resurrection of Capital Punishment in America

The account of a Florida death row lawyer's decision to withdraw from the American capital punishment system.

## **Stay of Execution**

"Published in cooperation with Hoover Institution, Stanford University, Stanford, California."--T.p.

## **Voices of the Death Penalty Debate**

Drawing on Old and New Testament resources as well as secular arguments, Gardner C. Hanks shows that the death penalty harms rather than helps any quest for a just, humane society. He demonstrates through research data that the death penalty is an ineffective crime-fighting tool.

## **The Biblical Truth about America's Death Penalty**

From 1965 until 1980, there was a virtual moratorium on executions for capital offenses in the United States. This was due primarily to protracted legal proceedings challenging the death penalty on constitutional grounds. After much Sturm und Drang, the Supreme Court of the United States, by a divided vote, finally decided that "the death penalty does not invariably violate the Cruel and Unusual Punishment Clause of the Eighth Amendment." The Court's decisions, however, do not moot the controversy about the death penalty or render this excellent book irrelevant. The ball is now in the court of the Legislature and the Executive. Legislatures, federal and state, can impose or abolish the death penalty, within the guidelines prescribed by the Supreme Court. A Chief Executive can commute a death

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sentence. And even the Supreme Court can change its mind, as it has done on many occasions and did, with respect to various aspects of the death penalty itself, during the moratorium period. Also, the people can change their minds. Some time ago, a majority, according to reliable polls, favored abolition. Today, a substantial majority favors imposition of the death penalty. The pendulum can swing again, as it has done in the past.

### **The Death Penalty**

It has long been acknowledged that the death penalty in the United States of America has been shaped by the country's history of slavery and racial violence, but this book considers the lesser-explored relationship between the two practices' respective abolitionist movements. The book explains how the historical and conceptual links between slavery and capital punishment have both helped and hindered efforts to end capital punishment. The comparative study also sheds light on the nature of such efforts, and offers lessons for how death penalty abolitionism should proceed in future. Using the history of slavery and abolition, it is argued that anti-death penalty efforts should be premised on the ideologies of the radical slavery abolitionists.

### **The History of the Death Penalty in Colorado**

### **The Case Against the Death Penalty**

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Today, death sentences in the U.S. are as rare as lightning strikes. Brandon Garrett shows us the reasons why, and explains what the failed death penalty experiment teaches about the effect of inept lawyering, overzealous prosecution, race discrimination, wrongful convictions, and excessive punishments throughout the criminal justice system.

### **Against Capital Punishment**

Two distinguished social and political philosophers take opposing positions in this highly engaging work. Louis P. Pojman justifies the practice of execution by appealing to the principle of retribution: we deserve to be rewarded and punished according to the virtue or viciousness of our actions. He asserts that the death penalty does deter some potential murderers and that we risk the lives of innocent people who might otherwise live if we refuse to execute those deserving that punishment. Jeffrey Reiman argues that although the death penalty is a just punishment for murder, we are not morally obliged to execute murderers. Since we lack conclusive evidence that executing murderers is an effective deterrent and because we can foster the advance of civilization by demonstrating our intolerance for cruelty in our unwillingness to kill those who kill others, Reiman concludes that it is good in principle to avoid the death penalty, and bad in practice to impose it.

### **The Death Penalty**

During the Dark Ages and the Renaissance, Europe's

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monarchs often resorted to torture and executions. The pain inflicted by instruments of torture—from the thumbscrew and the rack to the Inquisition’s tools of torment—was eclipsed only by horrific methods of execution, from breaking on the wheel and crucifixion to drawing and quartering and burning at the stake. The English “Bloody Code” made more than 200 crimes punishable by death, and judicial torture—expressly authorized by law and used to extract confessions—permeated continental European legal systems. Judges regularly imposed death sentences and other harsh corporal punishments, from the stocks and the pillory, to branding and ear cropping, to lashes at public whipping posts. In the Enlightenment, jurists and writers questioned the efficacy of torture and capital punishment. In 1764, the Italian philosopher Cesare Beccaria—the father of the world’s anti-death penalty movement—condemned both practices. And Montesquieu, like Beccaria and others, concluded that any punishment that goes beyond absolute necessity is tyrannical. Traditionally, torture and executions have been viewed in separate legal silos, with countries renouncing acts of torture while simultaneously using capital punishment. The UN Convention Against Torture strictly prohibits physical or psychological torture; not even war or threat of war can be invoked to justify it. But under the guise of “lawful sanctions,” some countries continue to carry out executions even though they bear the indicia of torture. In *The Death Penalty as Torture*, Prof. John Bessler argues that death sentences and executions are medieval relics. In a world in which “mock” or simulated executions, as well as a host of other non-

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lethal acts, are already considered to be torturous, he contends that death sentences and executions should be classified under the rubric of torture. Unlike in the Middle Ages, penitentiaries—one of the products of the Enlightenment—now exist throughout the globe to house violent offenders. With the rise of life without parole sentences, and with more than four of five nations no longer using executions, *The Death Penalty as Torture* calls for the recognition of a peremptory, international law norm against the death penalty's use.

### **Capital Punishment**

"In this newest installment in Chicago's series of Jacques Derrida's seminars, the renowned philosopher attempts one of his most ambitious goals: the first truly philosophical argument against the death penalty. While much has been written against the death penalty, Derrida contends that Western philosophy is massively, if not always overtly, complicit with a logic in which a sovereign state has the right to take a life. Haunted by this notion, he turns to the key places where such logic has been established - and to the place it has been most effectively challenged: literature. With his signature genius and patient yet dazzling readings of an impressive breadth of texts, Derrida examines everything from the Bible to Plato to Camus to Jean Genet, with special attention to Kant and post-World War II juridical texts, to draw the landscape of death penalty discourses. Keeping clearly in view the death rows and execution chambers of the United States, he

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shows how arguments surrounding cruel and unusual punishment depend on what he calls an 'anesthetical logic,' which has also driven the development of death penalty technology from the French guillotine to lethal injection. Confronting a demand for philosophical rigor, he pursues provocative analyses of the shortcomings of abolitionist discourse. Above all, he argues that the death penalty and its attendant technologies are products of a desire to put an end to one of the most fundamental qualities of our finite existence: the radical uncertainty of when we will die. Arriving at a critical juncture in history - especially in the United States, one of the last Christian-inspired democracies to resist abolition - *The Death Penalty* is both a timely response to an important ethical debate and a timeless addition to Derrida's esteemed body of work"--Unedited summary from book jacket.

### **Dead Wrong**

Why does the United States, alone among Western democracies, still have the death penalty? It's not a new question, but David Garland provides fresh answers from a multilayered analysis. The title hints at the most provocative part of Garland's answer. In American history, the "peculiar institution" is slavery. Anyone who thinks its vestiges were wiped out by the Emancipation Proclamation or civil rights laws should read this book and think again.

### **Deterrence and the Death Penalty**

Discusses the history of the two Supreme Court cases

that were responsible for changing the laws regarding the death penalty in America and polarizing the nation.

### **Courting Death**

### **Crimes and Punishments**

The death penalty arouses our passions as does few other issues. Some view taking another person's life as just and reasonable punishment while others see it as an inhumane and barbaric act. But the intensity of feeling that capital punishment provokes often obscures its long and varied history in this country. Now, for the first time, we have a comprehensive history of the death penalty in the United States. Law professor Stuart Banner tells the story of how, over four centuries, dramatic changes have taken place in the ways capital punishment has been administered and experienced. In the seventeenth and eighteenth centuries, the penalty was standard for a laundry list of crimes--from adultery to murder, from arson to stealing horses. Hangings were public events, staged before audiences numbering in the thousands, attended by women and men, young and old, black and white alike. Early on, the gruesome spectacle had explicitly religious purposes--an event replete with sermons, confessions, and last minute penitence--to promote the salvation of both the condemned and the crowd. Through the nineteenth century, the execution became desacralized, increasingly secular and private, in response to changing mores. In the

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twentieth and twenty-first centuries, ironically, as it has become a quiet, sanitary, technological procedure, the death penalty is as divisive as ever. By recreating what it was like to be the condemned, the executioner, and the spectator, Banner moves beyond the debates, to give us an unprecedented understanding of capital punishment's many meanings. As nearly four thousand inmates are now on death row, and almost one hundred are currently being executed each year, the furious debate is unlikely to diminish. The Death Penalty is invaluable in understanding the American way of the ultimate punishment.

Table of Contents: Abbreviations  
Introduction 1. Terror, Blood, and Repentance 2. Hanging Day 3. Degrees of Death 4. The Origins of Opposition 5. Northern Reform, Southern Retention 6. Into the Jail Yard 7. Technological Cures 8. Decline 9. To the Supreme Court 10. Resurrection Epilogue  
Appendix: Counting Executions Notes

Acknowledgments Index Reviews of this book:

[Banner] deftly balances history and politics, crafting a book that will be valuable to anyone interested in knowing more about capital punishment, no matter what his or her views are on the ethical issues surrounding the topic. --David Pitt, Booklist  
Reviews of this book: In this well-researched and clear account Banner charts how and why this country went from having one of the world's mildest punitive systems to one of its harshest. --Publishers Weekly  
Reviews of this book: Stuart Banner's book is fine and balanced and important. His lucid history of this grim subject is scrupulously accurate. It is refreshingly free of the tendentiousness and the sensationalism that this subject invites. --Richard A. Posner, New Republic

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Reviews of this book: [The] contrast between the past and the present can now be seen with great clarity thanks to Stuart Banner and his comprehensive book, *The Death Penalty*. American historians have been slow to undertake anything like a full-scale study of the subject. Banner's book does much to fill [the gaps]. His book is an important and comprehensive treatment of the topic. --Hugo Adam Bedau, *Boston Review*

Reviews of this book: Despite the gruesome nature of the book's topic, it is difficult to stop reading.

Banner's research is fascinating, his writing style compelling. Given the emotional nature of the subject (few people known to me are wishy-washy about whether the death penalty is moral or immoral), Banner walks the line of neutrality skillfully, without seeming evasive. --Steve Weinberg, *Legal Times*

Reviews of this book: Stuart Banner's *The Death Penalty* is a tour de force, remarkable for its neutrality as it traces the ways in which the death penalty has been applied, and for what kinds of crimes, from the Colonial era to the present. Banner writes like a historian who believes perspective is best gained by dispassionately setting out what happened and letting everyone come to his or her own conclusions. I think, in this book, that works wonderfully. On a subject in which emotions run so high, it seems awfully useful to have a dispassionate voice. After all, if Banner allowed his own feelings on the death penalty--pro, con or somewhere in the middle--to be known, the book easily could be dismissed as a diatribe. He doesn't, and it can't. --Judith Neuman Beck, *San Jose Mercury News*

Reviews of this book: Law professor Banner offers a persuasive examination of the evolution of capital punishment from Colonial times

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onward. He makes clear that the death penalty has possessed generally consistent support from the US populace, although changes in the sensibilities of juries, executioners, legal theoreticians, and judges have occurred. Highly recommended. --R. C. Cottrell, Choice Reviews of this book: Stuart Banner aptly illustrates in *The Death Penalty*, like the nation, the death penalty has changed with the times. Banner's account spotlights a number of interesting trends in American history. Mostly evenhanded in the tour he provides through the history of the death penalty and its role in and reflection of American society, he has managed to provide an accessible look at what is a profoundly controversial and complicated subject. --Steven Martinovich, Ft. Lauderdale Sun-Sentinel Reviews of this book: "For centuries," Stuart Banner tells us, "Americans had been proud to possess a criminal-justice system that made less use of the death penalty than just about any other place on the globe, including the countries of western Europe." But no longer. Now we possess "one of the harshest criminal codes in the world." *The Death Penalty* helps explain that turnaround, but only in the course of a complicated story in which different factors emerge at different times to play often unforeseeable roles. [This is a] superbly told history. --Paul Rosenberg, Denver Post and Rocky Mountain News Reviews of this book: Stuart Banner's lucid, richly researched book brings us, for the first time, a comprehensive history of American capital punishment from colonial times to the present. He describes the practices that characterized the institution at different periods, elucidates their ritual purposes and social meanings, and identifies the forces that led to their

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transformation. The book's well-ordered narrative is interspersed with individual case histories, that give flesh and blood to the account. --David Garland, Times Literary Supplement Reviews of this book: [An] informative, even-handed, chillingly fascinating account of why and how the U.S. government and many state governments decided to sponsor executions of criminals--even though innocent defendants might die, too. --Jane Henderson, St. Louis Post-Dispatch Reviews of this book: Stuart Banner's The Death Penalty is a splendidly objective achievement. Delightfully written, free of academic pretense, liberally sprinkled with apt references from contemporary sources, the book exhaustively explores the multifaceted evolution of America's penal practices. --Elsbeth Bothe, Baltimore Sun The Death Penalty is certain to be the definitive account of the American experience with capital punishment, from its beginnings in the seventeenth century, to the execution of Timothy McVeigh in 2001. This is a first rate piece of scholarship: well written, deeply researched, fascinating to read, and full of insights and good common sense. It is, in my view, one of the finest books to deal with this troubled and troubling subject. Historical and legal scholarship owe a debt of gratitude to Stuart Banner. --Lawrence Friedman, Stanford Law School A masterful book. This is a long overdue account which fills a huge gap in our understanding of America's long and complex relationship to state killing. With meticulous scholarship and lucid prose, Banner has written a compelling account of the place of capital punishment in our society. It sets the standard for all future scholarship on the history of the death penalty in

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America. --Austin Sarat, author of *When the State Kills: Capital Punishment and the American Condition* The Death Penalty, a study we have badly needed, is the first history of the nation's engagement--as well as its disengagement--with capital punishment from the country's earliest days to the present. With a sure grasp of the constitutional issues, Stuart Banner greatly advances a conversation at last underway about the rightness of putting people to death for having inflicted a death. Banner's greatest and most useful feat is remaining dispassionate on a subject that he cares deeply about--as do a growing number of his fellow Americans. --William S. McFeely, author of *Proximity to Death* The Death Penalty beautifully explains the changing paths traveled by supporters and opponents of capital punishment over the years. It explores a subject of enormous symbolic importance to Americans today, linking our views about the death penalty to our larger concerns about crime. --David Oshinsky, author of "Worse Than Slavery": Parchman Farm and the Ordeal of Jim Crow Justice Banner's book is a superbly detailed and textured social history of a subject too often treated in legal abstractions. It demonstrates how capital punishment has gnawed at the conscience and imagination of Americans, and how it has challenged their efforts to define themselves culturally, politically, and racially. --Robert Weisberg, Stanford Law School

### **End of Its Rope**

Presents the stories of ten members of a national anti-

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death penalty group, Murder Victims' Families for Reconciliation, describing what led them to choose forgiveness for the killers of their loved ones instead of revenge.

### **Abolition**

Discusses both sides of the capital punishment debate based on the public hearings held in New York State about reinstating the death penalty, with coverage of such topics as costs, constitutional limitations, and executions of the wrongfully convicted.

### **Dead Man Walking**

This distinguished constitutional theorist takes a hard look at current criminal law and the Supreme Court's most recent decisions regarding the legality of capital punishment. Examining the penal system, capital punishment, and punishment in general, he reviews the continuing debate about the purpose of punishment for deterrence, rehabilitation, or retribution. He points out that the steady moderation of criminal law has not effected a corresponding moderation in criminal ways or improved the conditions under which men must live. He decries the "pious sentiment" of those who maintain that criminals need to be rehabilitated. He concludes that the real issue is not whether the death penalty deters crime, but that in an imperfect universe, justice demands the death penalty. Originally published by Basic Books in 1979.

### **Against the Death Penalty**

The first known abolitionist critique of the death penalty—here for the first time in English In 1764, a Milanese aristocrat named Cesare Beccaria created a sensation when he published *On Crimes and Punishments*. At its centre is a rejection of the death penalty as excessive, unnecessary, and pointless. Beccaria is deservedly regarded as the founding father of modern criminal-law reform, yet he was not the first to argue for the abolition of the death penalty. *Against the Death Penalty* presents the first English translation of the Florentine aristocrat Giuseppe Pelli's critique of capital punishment, written three years before Beccaria's treatise, but lost for more than two centuries in the Pelli family archives. Peter Garnsey examines the contrasting arguments of the two abolitionists, who drew from different intellectual traditions. Pelli was a devout Catholic influenced by the writings of natural jurists such as Hugo Grotius, whereas Beccaria was inspired by the French Enlightenment philosophers. While Beccaria attacked the criminal justice system as a whole, Pelli focused on the death penalty, composing a critique of considerable depth and sophistication. Garnsey explores how Beccaria's alternative penalty of forced labour, and its conceptualisation as servitude, were embraced in Britain and America, and delves into Pelli's voluminous diaries, shedding light on Pelli's intellectual development and painting a vivid portrait of an Enlightenment man of letters and of conscience. With translations of letters exchanged by the two abolitionists and selections from Beccaria's writings,

Against the Death Penalty provides new insights into eighteenth-century debates about capital punishment and offers vital historical perspectives on one of the most pressing questions of our own time.

### **Against the Death Penalty**

As most jurisdictions move away from the death penalty, some remain strongly committed to it, while others hold on to it but use it sparingly. This volume seeks to understand why, by examining the death penalty's relationship to state governance in the past and present. It also examines how international, transnational and national forces intersect in order to understand the possibilities of future death penalty abolition. The chapters cover the USA - the only western democracy that still uses the death penalty - and Asia - the site of some 90 per cent of all executions. Also included are discussions of the death penalty in Islam and its practice in selected Muslim majority countries. There is also a comparative chapter departing from the response to the mass killings in Norway in 2011. Leading experts in law, criminology and human rights combine theory and empirical research to further our understanding of the relationships between ways of governance, the role of leadership and the death penalty practices. This book questions whether the death penalty in and of itself is a hazard to a sustainable development of criminal justice. It is an invaluable resource for all those researching and campaigning for the global abolition of capital punishment.

### **The Death Penalty**

Michigan is the only state in the country that has a death penalty prohibition in its constitution—Eugene G. Wanger’s compelling arguments against capital punishment is a large reason it is there. The forty pieces in this volume are writings created or used by the author, who penned the prohibition clause, during his fifty years as a death penalty abolitionist. His extraordinary background in forensics, law, and political activity as constitutional convention delegate and co-chairman of the Michigan Committee Against Capital Punishment has produced a remarkable collection. It is not only a fifty-year history of the anti-death penalty argument in America, it also is a detailed and challenging example of how the argument against capital punishment may be successfully made.

### **Debating the Death Penalty**

In 1976, the US Supreme Court ruled in *Gregg v. Georgia* that the death penalty was constitutional if it complied with certain specific provisions designed to ensure that it was reserved for the 'worst of the worst.' The same court had rejected the death penalty just four years before in the *Furman* decision because it found that the penalty had been applied in a capricious and arbitrary manner. The 1976 decision ushered in the 'modern' period of the US death penalty, setting the country on a course to execute over 1,400 inmates in the ensuing years, with over 8,000 individuals currently sentenced to die. Now,

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forty years after the decision, the eminent political scientist Frank Baumgartner along with a team of younger scholars (Marty Davidson, Kaneesha Johnson, Arvind Krishnamurthy, and Colin Wilson) have collaborated to assess the empirical record and provide a definitive account of how the death penalty has been implemented. Each chapter addresses a precise empirical question and provides evidence, not opinion, about whether how the modern death penalty has functioned. They decided to write the book after Justice Breyer issued a dissent in a 2015 death penalty case in which he asked for a full briefing on the constitutionality of the death penalty. In particular, they assess the extent to which the modern death penalty has met the aspirations of Gregg or continues to suffer from the flaws that caused its rejection in Furman. To answer this question, they provide the most comprehensive statistical account yet of the workings of the capital punishment system. Authoritative and pithy, the book is intended for both students in a wide variety of fields, researchers studying the topic, and--not least--the Supreme Court itself.

### **Slavery and the Death Penalty**

In 1982, Sister Helen Prejean became the spiritual advisor to Patrick Sonnier, the convicted killer of two teenagers who was sentenced to die in the electric chair of Louisiana's Angola State Prison. In the months before Sonnier's death, the Roman Catholic nun came to know a man who was as terrified as he had once been terrifying. She also came to know the families of

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the victims and the men whose job it was to execute—men who often harbored doubts about the rightness of what they were doing. Out of that dreadful intimacy comes a profoundly moving spiritual journey through our system of capital punishment. Here Sister Helen confronts both the plight of the condemned and the rage of the bereaved, the fears of a society shattered by violence and the Christian imperative of love. On its original publication in 1993, *Dead Man Walking* emerged as an unprecedented look at the human consequences of the death penalty. Now, some two decades later, this story—which has inspired a film, a stage play, an opera and a musical album—is more gut-wrenching than ever, stirring deep and life-changing reflection in all who encounter it.

### **Lethal State**

In *The History of the Death Penalty in Colorado*, noted death penalty scholar Michael Radelet chronicles the details of each capital punishment trial and execution that has taken place in Colorado since 1859. The book describes the debates and struggles that Coloradans have had over the use of the death penalty, placing the cases of the 103 men whose sentences were carried out and 100 more who were never executed into the context of a gradual worldwide trend away from this form of punishment. For more than 150 years, Coloradans have been deeply divided about the death penalty, with regular questions about whether it should be expanded, restricted, or eliminated. It has twice been abolished, but both

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times state lawmakers reinstated the contentious punitive measure. Prison administrators have contributed to this debate, with some refusing to participate in executions and some lending their voices to abolition efforts. Colorado has also had a rich history of experimenting with execution methods, first hanging prisoners in public and then, starting in 1890, using the "twitch-up gallows" for four decades. In 1933, Colorado began using a gas chamber and eventually moved to lethal injection in the 1990s. Based on meticulous archival research in official state archives, library records, and multimedia sources, *The History of the Death Penalty in Colorado*, will inform the conversation on both sides of the issue anywhere the future of the death penalty is under debate.

### **Arbitrary Death**

In this reasoned exploration of justice, retribution, and redemption, the champion of the new monastic movement, popular speaker, and author of the bestselling *The Irresistible Revolution* offers a powerful and persuasive appeal for the abolition of the death penalty. The Bible says an eye for an eye. But is the state's taking of a life true—or even practical—punishment for convicted prisoners? In this thought-provoking work, Shane Claiborne explores the issue of the death penalty and the contrast between punitive justice and restorative justice, questioning our notions of fairness, revenge, and absolution. Using an historical lens to frame his argument, Claiborne draws on testimonials and examples from Scripture to show how the death

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penalty is not the ideal of justice that many believe. Not only is a life lost, so too, is the possibility of mercy and grace. In *Executing Grace*, he reminds us of the divine power of forgiveness, and evokes the fundamental truth of the Gospel—that no one, even a criminal, is beyond redemption.

### **Don't Kill in Our Names**

America's leading writer about the law takes a close, incisive look at one of society's most vexing legal issues. Scott Turow is known to millions as the author of peerless novels about the troubling regions of experience where law and reality intersect. In "real life," as a respected criminal lawyer, he has been involved with the death penalty for more than a decade, including successfully representing two different men convicted in death-penalty prosecutions. In this vivid account of how his views on the death penalty have evolved, Turow describes his own experiences with capital punishment from his days as an impassioned young prosecutor to his recent service on the Illinois commission which investigated the administration of the death penalty and influenced Governor George Ryan's unprecedented commutation of the sentences of 164 death row inmates on his last day in office. Along the way, he provides a brief history of America's ambivalent relationship with the ultimate punishment, analyzes the potent reasons for and against it, including the role of the victims' survivors, and tells the powerful stories behind the statistics, as he moves from the Governor's Mansion to Illinois' state-

of-the-art 'super-max' prison and the execution chamber. *Ultimate Punishment*, this gripping, clear-sighted, necessary examination of the principles, the personalities, and the politics of a fundamental dilemma of our democracy has all the drama and intellectual substance of Turow's celebrated fiction.

### **Fighting the Death Penalty**

Nation states and communities throughout the world have reached certain decisions about capital punishment: It is the destruction of human life. It is ineffective as a deterrent for crime. It is an instrument the state uses to contain or eliminate its political adversaries. It is a tool of "justice" that disproportionality affects religious, social, and racial minorities. It is a sanction that cannot be fixed if unjustly applied. Yet the United States—along with countries notorious for human rights abuse—remains an advocate for the death penalty. In these thirteen pieces, Mario Marazziti exposes the profound inhumanity and irrationality of the death penalty in this country, and urges us to join virtually every other industrialized democracy in rendering capital punishment an abandoned practice belonging to a crueler time in human history. A polemical book, yes, yet one that brings together a wide range of stories to compel the heart as well the mind. From the Hardcover edition.

### **Executing Grace**

This edited volume brings together leading scholars

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on the death penalty within international, regional and municipal law. It considers the intrinsic elements of both the promotion and demise of the punishment around the world, and provides analysis which contributes to the evolving abolitionist discourse.

### **Deadly Justice**

The death penalty has inspired controversy for centuries. Raising questions regarding capital punishment rather than answering them, *Questioning Capital Punishment* offers the footing needed to allow for more informed consideration and analysis of these controversies. Acker edits judicial decisions that have addressed constitutional challenges to capital punishment and its administration in the United States and uses complementary materials to offer historical, empirical, and normative perspectives about death penalty policies and practices. This book is ideal for upper-level undergraduate and graduate classes in criminal justice.

### **The Death Penalty, Volume II**

The specter of procedural injustice motivates many popular and scholarly objections to capital punishment. So-called proceduralist arguments against the death penalty are attractive to death penalty abolitionists because they sidestep the controversies that bedevil moral critiques of execution. Proceduralists do not shoulder the burden of demonstrating that heinous murderers deserve a punishment less than death. However, proceduralist

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arguments often pay insufficient attention to the importance of punishment; many imply the highly contentious claim that no type of criminal sanction is legitimate. In *Against Capital Punishment*, Benjamin S. Yost revitalizes the core of proceduralism both by examining the connection between procedural injustice and the impermissibility of capital punishment and by offering a comprehensive argument of his own which confronts proceduralism's most significant shortcomings. Yost is the first author to develop and defend the irrevocability argument against capital punishment, demonstrating that the irremediability of execution renders capital punishment impermissible. His contention is not that the act of execution is immoral, but rather that the possibility of irrevocable mistakes precludes the just administration of the death penalty. Shoring up proceduralist arguments for the abolition of the death penalty, *Against Capital Punishment* carries with it implications not only for the continued use of the death penalty in the criminal justice system, but also for the structure and integrity of the system as a whole.

### **Peculiar Institution**

Refusing to eradicate the death penalty, the U.S. has attempted to reform and rationalize capital punishment through federal constitutional law. While execution chambers remain active in several states, Carol Steiker and Jordan Steiker argue that the fate of the American death penalty is likely to be sealed by this failed judicial experiment.

### Questioning Capital Punishment

A landmark dissenting opinion arguing against the death penalty Does the death penalty violate the Constitution? In *Against the Death Penalty*, Justice Stephen G. Breyer argues that it does: that it is carried out unfairly and inconsistently, and thus violates the ban on "cruel and unusual punishments" specified by the Eighth Amendment to the Constitution. "Today's administration of the death penalty," Breyer writes, "involves three fundamental constitutional defects: (1) serious unreliability, (2) arbitrariness in application, and (3) unconscionably long delays that undermine the death penalty's penological purpose. Perhaps as a result, (4) most places within the United States have abandoned its use." This volume contains Breyer's dissent in the case of *Glossip v. Gross*, which involved an unsuccessful challenge to Oklahoma's use of a lethal-injection drug because it might cause severe pain. Justice Breyer's legal citations have been edited to make them understandable to a general audience, but the text retains the full force of his powerful argument that the time has come for the Supreme Court to revisit the constitutionality of the death penalty. Breyer was joined in his dissent from the bench by Justice Ruth Bader Ginsburg. Their passionate argument has been cited by many legal experts — including fellow Justice Antonin Scalia — as signaling an eventual Court ruling striking down the death penalty. A similar dissent in 1963 by Breyer's mentor, Justice Arthur J. Goldberg, helped set the stage for a later ruling, imposing what turned out to

be a four-year moratorium on executions.

### **The Death Penalty As Torture**

For years, American states have tinkered with the machinery of death, seeking to align capital punishment with evolving social standards and public will. Against this backdrop, North Carolina had long stood out as a prolific executioner with harsh mandatory sentencing statutes. But as the state sought to remake its image as modern and business-progressive in the early twentieth century, the question of execution preoccupied lawmakers, reformers, and state boosters alike. In this book, Seth Kotch recounts the history of the death penalty in North Carolina from its colonial origins to the present. He tracks the attempts to reform and sanitize the administration of death in a state as dedicated to its image as it was to rigid racial hierarchies. Through this lens, *Lethal State* helps explain not only Americans' deep and growing uncertainty about the death penalty but also their commitment to it. Kotch argues that Jim Crow justice continued to reign in the guise of a modernizing, orderly state and offers essential insight into the relationship between race, violence, and power in North Carolina. The history of capital punishment in North Carolina, as in other states wrestling with similar issues, emerges as one of state-building through lethal punishment.

### **Against the Death Penalty**

Capital punishment is irrevocable. It prohibits the

## Get Free Against The Death Penalty

correction of mistakes by the justice system and leaves no room for human error, with the gravest of consequences. There is no evidence of a deterrent effect of the death penalty. Those sacrificed on the altar of retributive justice are almost always the most vulnerable. This book covers a wide range of topics, from the discriminatory application of the death penalty, wrongful convictions, proven lack of deterrence effect, to legality of the capital punishment under international law and the morality of taking of human life.

### **Moving Away from the Death Penalty**

While secular support for capital punishment in America seems to be waning, religious conservatives, particularly in the "Bible belt," remain staunch advocates of the death penalty, citing biblical law and practice to defend government-sanctioned killing. Dale S. Recinella compares biblical teaching about the death penalty, including such passages as "eye for eye, tooth for tooth, life for life," with the nation's current system of capital punishment, and offers persuasive arguments for a faith-based moratorium on -- and eventual abolition of -- executions. Framing his careful and incisive analysis as a legal brief to those who believe the Bible mandates the ultimate punishment, the author addresses two critical areas of inquiry: what do the scriptures tell us about who is deserving of death and who has the authority to kill, and what do they tell us about the required standards for execution and the plight of victims' families. Recinella's examination of the Hebrew Torah, or

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Christian Pentateuch, and the Talmud reveals that the biblical death penalty was not a simple system of swift retribution, but a complex and practical set of laws that guided capital courts established under the Sanhedrin. His scrutiny of these texts, the Christian doctrine of atonement, and Romans 13 in the Pauline Epistles, draws parallels between the traditional biblical arguments used in favor of capital punishment and those used as the basis for pro-slavery positions in the nineteenth century. Demonstrating that both approaches are unsubstantiated in biblical terms, Recinella debunks the accepted religious reasoning for support of the death penalty and shows instead that the Bible's strict conditions for sanctioning execution are at odds with the arbitrary ways in which capital punishment is administered in the United States. He provides convincing evidence that a sentence of death in today's criminal justice system in fact fails to meet both the Bible's exacting procedural requirements and its strict limitations on judicial authority. By providing actual scriptural language and foundation to counter the position that biblical truth justifies a pro-death penalty stance, this thoughtful, solidly researched, and well-reasoned work will give pause to religious fundamentalists and challenge them to rethink their strongly held views on capital punishment.

### **Ultimate Punishment**

Prospects for the future.

### **For Capital Punishment**

## Get Free Against The Death Penalty

Over a career spanning nearly four decades, Rick Unklesbay has tried over one hundred murder cases before juries that ended with sixteen men and women receiving the death sentence. *Arbitrary Death* depicts some of the most horrific murders in Tucson, Arizona, the author's prosecution of those cases, and how the death penalty was applied. It provides the framework to answer the questions: Why is America the only Western country to still use the death penalty? Can a human-run system treat those cases fairly and avoid unconstitutional arbitrariness? It is an insider's view from someone who has spent decades prosecuting murder cases and who now argues that the death penalty doesn't work and our system is fundamentally flawed. With a rational, balanced approach, Unklesbay depicts cases that represent how different parts of the criminal justice system are responsible for the arbitrary nature of the death penalty and work against the fair application of the law. The prosecution, trial courts, juries, and appellate courts all play a part in what ultimately is a roll of the dice as to whether a defendant lives or dies. *Arbitrary Death* is for anyone who wonders why and when its government seeks to legally take the life of one of its citizens. It will have you questioning whether you can support a system that applies death as an arbitrary punishment -- and often decades after the sentence was given.

### **The Death Penalty**

Experts on both side of the issue speak out both for and against capital punishment and the rationale

behind their individual beliefs.

### **13 Ways of Looking at the Death Penalty**

Many studies during the past few decades have sought to determine whether the death penalty has any deterrent effect on homicide rates. Researchers have reached widely varying, even contradictory, conclusions. Some studies have concluded that the threat of capital punishment deters murders, saving large numbers of lives; other studies have concluded that executions actually increase homicides; still others, that executions have no effect on murder rates. Commentary among researchers, advocates, and policymakers on the scientific validity of the findings has sometimes been acrimonious. Against this backdrop, the National Research Council report *Deterrence and the Death Penalty* assesses whether the available evidence provides a scientific basis for answering questions of if and how the death penalty affects homicide rates. This new report from the Committee on Law and Justice concludes that research to date on the effect of capital punishment on homicide rates is not useful in determining whether the death penalty increases, decreases, or has no effect on these rates. The key question is whether capital punishment is less or more effective as a deterrent than alternative punishments, such as a life sentence without the possibility of parole. Yet none of the research that has been done accounted for the possible effect of noncapital punishments on homicide rates. The report recommends new avenues of research that may provide broader insight into any

deterrent effects from both capital and noncapital punishments.

### **Against Capital Punishment**

The Death Penalty, Third Edition, brings together all the legal issues related to the death penalty and provides case briefs for the most important United States Supreme Court death penalty cases. No other book available brings together a discussion of the major constitutional issues surrounding the death penalty with a broad array of associated case briefs. The authors classify cases according to legal issues and provide a commentary on the various sub-topics, presenting legal materials in an easily understood form. Though the primary audiences of the book are undergraduates in criminal justice programs and practitioners in the corrections and justice systems, the book will also prove useful to anyone who has an interest in the death penalty, the criminal justice system, or the United States Constitution. Every chapter starts with commentaries regarding general case law in a sub-topic, such as aggravating and mitigating factors, followed by a chart of the cases briefed in the chapter, and then the case briefs. These case briefs acquaint the reader with Supreme Court cases by summarizing facts, issues, reasons, and holdings. The Death Penalty, Third Edition, is a succinct, trusted guide to the law of capital punishment in the United States.

### **Against the Death Penalty**

## Get Free Against The Death Penalty

The English translation of a behind-the-scenes account of the abolition of the death penalty in France

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