

## On Reinstating the Death Penalty

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### Abstract

*The Psychological Association of the Philippines (PAP) articulates its position on capital punishment from the point of view of evidence-based social science, psychology in particular, as well as of ethics. We are convinced that the Philippines has made great strides in humanitarian development by abolishing the death penalty. We are not in favor of reinstating it in our penal system. Capital punishment does not deliver on its hopes for better justice, closure for all parties concerned, and better crime prevention. It does not give full cognizance of the implications of its irreversible effect, the reality of the limits and inevitable class discrimination of the judicial process, and the misconception of closure and justice itself. The PAP advocates for the much better alternative of informed and rehabilitative justice, where both offender and offended get the best chance for a more positive process of closure and redemption.*

The Philippines is one of 140 countries that have abolished the death penalty either in law or in practice, as part of a global trend away from capital punishment (Amnesty International, 2015, cited in "The Death Penalty Worldwide"). Yet there have been repeated calls for the Philippines to reinstate capital punishment, with current Philippine President Rodrigo Duterte wanting to restore it. (see Andolong, CNN Philippines, 2016).

We present the following arguments to support our position:

- **Observations about the practice of capital punishment point to its discriminatory nature.** In the Philippines, it is typically the poorer sector who get this ultimate penal sanction. The majority of those sentenced to die have incomes below minimum wage (FLAG, 2000), unable to afford the legal services to defend themselves in a long process (CHR, 2007). Poorer, less educated Filipinos would not have the intellectual preparedness to think through ways of defending themselves (Te, 1996). This places them at a serious disadvantage.
- **Judicial flaws compromise the validity of the death penalty.** These may include incompetent counsel, inadequate investigatory services, or even outright police and prosecutorial violations of judicial procedures. In the Philippines, torture or ill treatment of suspects to coerce confessions or to implicate others is commonplace. Victims often fail to lodge complaints against the police due to intimidation, fear of reprisals, and lack of funds (Amnesty International, 2002).
- **History also points to gross misapplications of the death penalty law, with vulnerable individuals protected by Philippine law from capital punishment finding themselves on death row.** In 2003, there were 7 children in death row along with adult convicts (Amnesty International, 2003). The year 2000 saw 5 persons aged 70 or over in death row (FLAG, 2000, cited in Amnesty International, 2002). These examples show that it is not always certain whether the right person is convicted and, in this light, the death penalty is too high a price to pay when innocent people are convicted.

**The death penalty, and the legal proceedings leading up to it, could exact a huge toll on the psychological wellbeing of victims, offenders, and their families.** Majority of those on death row in the Philippines have been convicted of rape, with incestuous rape as the most common form. Victims of incestuous rape rarely seek the death of their offender but simply

desire cessation of abuse, re-establishment of safety, and rehabilitation of their family member. A possible death penalty sentence for these cases has been noted to keep victims from pursuing charges, and a death sentence for the offender can bring guilt to the victim, further sorrow, and conflict within affected families (Madrid et. al., 2001; People v Agbayani, 348 Phil. 368, 1998; Jamon and Bautista, 2016). In fact, majority of groups representing women and children in the Philippines, who are common victims of death penalty crimes, have taken a stance against capital punishment for rape and incest because they believe it would not solve the problem (Kandelina, 2006).

A common argument for the death penalty is that it brings closure to victims and their loved ones. Indeed, research shows that some families do experience relief or peace upon imposition of the death penalty on their offenders. **Yet in significant number of cases, the death penalty did not bring healing or closure to the offended** (Vollum and Longmire, 2007). Instead, what seem to be therapeutic for victims’ families are to make sense of what happened to their loved one, to make meanings out of their unpleasant experience, and to construct an empowering and restorative narrative (Armour and Umbreit, 2012).

**The judicial system’s primary goals should be the rehabilitation of those who have erred and the restoration of a sense of dignity in those robbed of it.** This is more in line with the human right to dignity and the absolute value of all human lives, including the lives of those who commit crimes. The PAP’s position on the death penalty is consistent with its Code of Ethics, particularly the principle of *Respect for the Dignity of Persons and Peoples*, consonant with the Universal Declaration of Human Rights (PAP, 2010).

**Extending the human rights logic, the right to life prevails over the principle of *lex talionis* (i.e. an eye for an eye).** Even retributive justice, which posits that offenders *must* be punished and that the degree of punishment should be proportionate to the seriousness of crime, does not automatically and necessarily indicate death as the ultimate penal sanction (Carlsmith, Darley, and Robinson, 2002), leaving a key question for research about the appropriate maximal penalty for the most serious crimes. Moral proportionality (Carlsmith et al., 2002) need not be deemed opposed to principles of restorative justice and therapeutic jurisprudence (see King, 2009). It is the task of research to help illumine how multiple perspectives representing both abstract principles and people’s everyday sense and decision-making (Carlsmith et al., 2002) could guide practices of prevention and rehabilitation.

Given all these, we oppose the reinstatement of the death penalty. Furthermore, we resolve to support efforts to:

- disseminate evidence-based information on capital punishment, especially its effects on psychological health;
- protect the rights and promote the welfare of vulnerable individuals especially against police and prosecutorial violations of judicial procedures;
- conduct psychological research on alternative maximal sanctions and therapeutic dimensions of judicial processes for victims, offenders, and their loved ones; and
- develop programs that aid in the redemptive rehabilitation of offenders, that support victims and their loved ones through and in the aftermath of judicial processes, and that foster the psychological wellbeing of these persons.

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