不再修補殺人機器

死刑違憲案 結辯陳述

訴訟代理人 李艾倫律師

用實體與程序的規範來限制死刑？

2009 ALI Report

CONCLUSION

The foregoing review of the unsuccessful efforts to constitutionally regulate the death penalty, the difficulties that continue to undermine its administration, and the structural and institutional obstacles to curing those ills forms the basis of our recommendation to the Institute. The longstanding recognition of these underlying defects in the capital justice process, the inability of extensive constitutional regulation to redress those defects, and the immense structural barriers to meaningful improvement all counsel strongly against the Institute's undertaking a law reform project on capital punishment, either in the form of a new draft of § 210.6 or a more extensive set of proposals. Rather, these conditions strongly suggest that the Institute recognize that the preconditions for an adequately administered regime of capital punishment do not currently exist and cannot reasonably be expected to be achieved.

JOINT STATEMENT BY CRIMINAL JUSTICE AND LAW ENFORCEMENT LEADERS IN OPPSITION TO APPLICATION OF THE FEDERAL DEATH PENALTY

December 2020

We are a group of nearly 100 current and former elected prosecutors, Attorneys General, and law enforcement leaders, and former United States Attorneys and Department of Justice officials writing in opposition to the application of the death penalty, and in support of clemency, for those individuals scheduled for federal execution in the coming months. Case after case has revealed that our nation's long experiment with the death penalty has failed. The process is broken, implicates systemic racism and constitutional concerns, and distinguishes our country from many other democratic nations in the world. If ever there were a time to revisit this practice, that time is now.

2021 司法部統計資料

Education		
8th grade or less	11.7%	218
9th-11th grade	35.0	652
High-school graduate/GED	44.1	823
Any college	9.2	172
Unknown		517
Race		
White[a]	56.8%	1,353
Black[a]	40.7	969
American Indian/Alaska Native[a]	0.8	18
Asian/Native Hawaiian/Other Pacific Islander[a,b]	1.8	42

2008 Maryland REPORT

Finding: The costs associated with cases in which a death sentence is sought are substantially higher than the costs associated with cases in which a sentence of life without the possibility of parole is sought.

(Results of Commission Vote on Finding: AGREE = 17; DISAGREE = 4)

The cost of pursuing a capital case is estimated conservatively to be at least three times the cost of a non-death penalty homicide prosecution ($1.1 to $2.9 million). The cost studies[17]

Stevens：

- 死刑程序系統性偏檢方
- 今日死刑制度已相當不同於當初我們所授權的死刑

Powell, J.：

- 死刑應被廢除
- 複雜上訴程序使絕大多數死刑未執行，讓司法系統不受信任

Blackmun：

- 死刑實驗失敗
- 沒有程序實體規範可挽救死刑固有的憲法缺陷
- 不再修補殺人機器

evolution of his views in interviews with ABC News and NPR. "I thought at the time ... that if the universe of defendants eligible for the death penalty is sufficiently narrow so that you can be confident that the defendant really merits that severe punishment, that the death penalty was appropriate." However, he said, over the years, "the Court constantly expanded the cases eligible for the death penalty, so that the underlying premise for my vote has disappeared, in a sense." Those decisions, he said, made death penalty procedures more sympathetic to prosecutors: "I really think that the death penalty today is vastly different from the death penalty that we thought we were authorizing."

"I have come to think that capital punishment should be abolished," Powell is quoted as saying. The vast majority of death sentences are never carried out due to complex appeals; as a result, the death penalty "brings discredit on the whole legal system," Powell said. The book describes the decision more as a pragmatic conclusion than a moral choice.

From this day forward, I no longer shall tinker with the machinery of death. For more than 20 years I have endeavored -- indeed, I have struggled, along with a majority of this Court -- to develop procedural and substantive rules that would lend more than the mere appearance of fairness to the death penalty endeavor. . . . Rather than continue to coddle the Court's delusion that the desired level of fairness has been achieved and the need for regulation eviscerated, I feel morally and intellectually obligated simply to concede that the death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the death penalty from its inherent constitutional deficiencies. The

財團法人法律扶助基金會
Legal Aid Foundation

個案妥適性 VS. 通案一致性

宣告死刑違憲

現行無期徒刑需 25 年始可「提報」假釋

未來替代方案由立法與行政決定


♡
運氣
與
♢
恣意

生命的價值

不應被決定