

The Ripple Effect: How the Death Penalty Acts as an Agent of Re-traumatization

Introduction

American capital punishment is like a pebble in a pond. It impacts a ripple effect, and in this ripple effect, the death penalty proceeds to impact many people, in addition to the person sentenced to death and the family members of their murder victim. The death penalty victimizes and traumatizes several populations, including the family members of the murder victim and the family members of the death row inmates. Dr. Sandra Bloom discusses how trauma encapsulates a communal experience because it not only impacts the victim and the perpetrator. Trauma imparts this ripple effect where it impacts other people, such as bystanders, and groups or individuals that connect to either the victim or the perpetrator (Bloom, 1996). This communal experience is mirrored by the process of the death penalty, and in this process, the perpetrator of trauma is not just the person who allegedly committed the murder. The state acts as a perpetrator of trauma, and it inflicts trauma onto both the family members of the executed and the family members of the murder victim.

First and foremost, it is necessary to establish the fact that the death penalty does not work in any way that its supporters claim that it does. It does not act as a deterrent of crime. It is utilized at the discretion of prosecutors. It often disproportionately impacts people of color, especially when their victims are white, and despite the fact that people of color do not commit murder at higher rates than white people. There is also always a risk that an innocent person is being sentenced to death, and that has happened quite frequently, since “nationally, at least one person is exonerated for every 10 that are executed.” Finally, people who end up on death row often are not provided with adequate counsel, and cannot afford to buy effective counsel

themselves, which has a major impact on the outcome of their trials (American Civil Liberties Union, 2012).

In this paper, I will explore how the death penalty operates as an agent of re-traumatization for the family members of murder victims and of those who are sentenced to death. I will discuss trauma in the broader sense and how the American culture's treatment of trauma is reflected in the criminal justice system. I will go on to explain how the death penalty process regularly re-traumatizes the family members of murder victims, especially if these family members oppose the death penalty. Finally, I will explore how the death penalty inflicts initial trauma onto the family members of death row inmates, and how it subsequently re-traumatizes them throughout the process.

What is Trauma and What is its Place in the Criminal Justice System?

According to Leanh Nguyen (2011), "trauma is a fissure in experience which introduces the subject (and vicariously the observer-society) to something unknowable, intolerable, and incomprehensible." This definition highlights an important aspect of trauma: its incomprehensibility. Trauma is an experience that is so intense and disturbing that the human brain cannot even comprehend this experience, nor cope with it without treatment.

In Nguyen's article, she goes on to discuss how American culture, and the agenda of many victim services organizations, tend to almost fetishize trauma in its celebration of the survivor arc. This arc is someone goes from being a victim of a traumatic event to a survivor who came out on the other side as a stronger person. In servicing this ideal, those that fund research and clinical work that targets trauma reduction demand what Nguyen deems to be

“immediate gratification”, encapsulated in straightforward solutions that will help people overcome their trauma fairly quickly (Nguyen, 2011).

This form of “immediate gratification” is mirrored in the American public’s response to different disasters. The podcast “Pod Save America” discussed how Americans simultaneously wield high levels of acute compassion, but low levels of chronic empathy, which makes it difficult to create and maintain safe and viable sustainable communities (Pod Save America, 2017). Acute compassion is exhibited in the short-term and immediately gratifying help that we provide after natural and/or man-made disasters, such as hurricanes or mass shootings. The American public comes out in droves to donate blood, help rebuild neighborhoods, and serve food to the victims of this disaster. But when it comes to the long-term, man-made disasters that need to be fixed, such as different forms of state violence, we lack the chronic empathy required to build these safe, sustainable communities that are free from the clutches of this violence. It is worth mentioning that the American socio-political system was deliberately built and maintained in a way that would exclude and harm marginalized groups in a myriad of ways, with policies and policy outcomes such as gerrymandering, the school-to-prison pipeline, surveillance of marginalized communities, and environmental racism. So in this system, there are many systems of oppression that get in the way of the non-elite American public acquiring the consciousness necessary to employ this chronic empathy. However, it is still necessary to draw these parallels between the American conscience and different American systems, like the criminal justice system.

We see this need for immediate gratification, which is disguised as acute compassion, in the American criminal justice system. This system is built on the notion of retributive justice,

and the defense of the death penalty is often rooted in the notion that executing the murderer of a family's loved one will be gratifying, and drive the healing process of the family forward. However, these families' experiences in the death penalty remains reminiscent of sanctuary trauma, "which occurs when an individual who has suffered a severe stressor next encounters what was expected to be a supportive and protective environment and discovers only more trauma" (Bloom, 1997). As I will explore in the paper, even if the loved one of a murder victim wants the victim's murderer to be executed, the process of the death penalty consistently re-traumatizes both the murder victims' families and the family members of the executed persons. Retraumatization is defined as:

"...a conscious or unconscious reminder of past trauma that results in a re-experiencing of the initial trauma event. It can be triggered by a situation, an attitude or expression, or by certain environments that replicate the dynamics (loss of power/control/safety) of the original trauma." (Hitzel, Shelly, and Zgoda, 2016)

The Re-traumatization of Murder Victims' Families in the Death Penalty Process

The loss of a family member is already difficult enough on its own. But when the death of a family member occurs in a way that is senselessly violent, making meaning out of this loss, which is an integral part of the healing process, is even harder. It is necessary for those who have lost a loved one to fit this loss into their "self-narrative", and this can only be accomplished through reflecting on this loss. However, people who lose a loved one in a violently traumatizing way tend to avoid reflecting on this loss in order to repress the traumatic memory. Marilyn Armour discusses how meaning-making in the aftermath of a murder requires several components. These components include declarations of self-determination, "fighting for what's

mine”, and giving purpose to the loss. They revolve around focusing on one’s own needs and engaging in deliberate action that helps survivors regain their sense of control — which was lost when their loved one died violently — and construct their narrative. However, as Marilyn Armour points out, meaning-making does not exist in a vacuum and cannot be separated from social context (Armour, 2003). This reclamation of power after an experience of powerlessness often does not occur for family members of murder victims in death penalty cases.

The context of the death penalty does not help families of murder victims’ with the process of meaning-making in the wake of loss. Even in the cases where certain elements of the death penalty process coincide with an individual’s meaning-making — such as cases where the family members of the victim want the death penalty implemented — it is possible that the negative impacts of ceaseless retraumatization in the death penalty process outweigh any positive impacts.

It must be stated that there is absolutely no evidence that the execution of their loved ones’ murder helps families heal — even if any of these individuals supported the execution — and that it actually causes the opposite effect (King, 2006). The death penalty process often involves the family members having to sit through several legal hearings about the murder of their loved one, and if we recall the definition of retraumatization, where a reminder of a past traumatic event triggers a re-experiencing of this event, this process fits well within the mold of what constitutes re-traumatization. In the midst of the death penalty process, their wounds deepen as they are constantly reminded of their initial trauma, which was the murder of their loved one. These family members do not get to move on and reflect on their loss in a healthy way that contributes to the meaning-making process.

The Victims of Crime Act states that victims, including the surviving family members of murder victims, possess “the right to be treated with fairness and with respect for the victim’s dignity and privacy.” However, the American criminal justice system operates under the assumption that all family members of murder victims support the execution of their loved one’s murderer. Victims’ rights are enforced under the guise of prosecutorial discretion, and the treatment of family members of murder victims conditionally hinges on whether they support capital punishment (Murder Victims’ Families for Reconciliation, 2002). Victims who do not support the death penalty are consistently mistreated by prosecutors and victim assistance programs alike.

For example, a Nebraska district court judge declared that the only family members who qualify as victims in capital punishment cases are those who support the death penalty. This judge was presiding over a case where the Lamms family, who opposed the execution of their loved one’s killer, sued the Nebraska Board of Pardons due to the fact that they were barred from presenting written or oral testimony at the hearing for the potential commutation of their loved one’s killer, even though the Nebraska state constitution states that victims were allowed to present statements at such a hearing (MVFR, 2002). Nebraska is not the only state where anti-death penalty victim impact evidence is not allowed. In *Robinson v. Maryland*, the Tenth Circuit would not allow this specific form of evidence to serve as a piece of mitigating evidence that the defense could use in order to help the defendant avoid the death penalty (Baird and McGinn, 2004). Unfortunately, this is not the only way that anti-death penalty victims are discriminated against. They are frequently denied their rights as victims, and this is due to the lack of genuine enforcement mechanisms for victims’ rights and explicit recognition of the rights

of victims who oppose the death penalty in legislation. Victims who oppose the death penalty tend to be denied the right to information about the court proceedings, along with information about sentencing alternatives that do not involve capital punishment. Many prosecutors in these cases will simply allow these victims to believe that the death penalty is the only option if they want to see their loved one's murderer imprisoned, even though the use of the death penalty is never legally mandated in any case and is always at discretion of the prosecutor. These victims are also denied the right to assistance and advocacy. The crime victims fund mandated under the Victims of Crime Act is not as accessible for anti-death penalty victims, since many anti-death penalty victims have discussed how many victims' services organizations are pro-death penalty, and do not put in the same amount of effort to reach out to anti-death penalty victims as a result. Many anti-death penalty victims will actually conceal their opposition to capital punishment in order to ensure that they are not denied the monetary aid that they need to offset the financial costs of their traumatic experience. Another disadvantage for some anti-death penalty victims is the fact that, if they choose to witness the execution, they are not provided with a debriefing afterwards. A debriefing is considered necessary after an execution due to the trauma of watching someone be put to death, and yet some anti-death penalty victims have reported that they were immediately escorted off the prison property after the execution (MVFR, 2002). Finally, family members of a murder victim who have opposing feelings about the death penalty can be torn apart in the process. Maria Hines, the sister of murdered Virginia State Trooper Jerry Hines, opposed the execution of his killer Dennis Eaton, while Jerry's widow supported it. Maria kept her opinion to herself until she saw the execution scene in the movie *Dead Man Walking*, and afterwards, she became Eaton's spiritual advisor. However, the media publicized this

information when they found out, and Maria's entire family turned against her as a result. She remains ostracized by her family to this day (King, 2006).

With all of these discriminatory experiences in mind, one can imagine how these denials of information, aid, and dignity could make a victim feel powerless and ostracized.

Retraumatization can involve being in "certain environments that replicate the dynamics (loss of power/control/safety) of the original trauma" (Hitzel and Shelly and Zgoda, 2016). Losing a loved one to murder would inevitably make a person feel powerless and out of control. So it is especially telling that a system that claims to exist to serve these victims would deliberately reignite their trauma just because their desires as victims do not align with the political agenda of the prosecutor and victims' assistance programs. The criminal justice system, especially in states where the use of the death penalty is frequent, will leave these victims behind without shame because these victims' desires negate the myth that the death penalty is what victims want, and what victims need to heal.

With regards to the tribulations that anti-death penalty victims especially face, parallels can drawn between these experiences and the impact it has on recovery from trauma.

Post-traumatic stress disorder, a disorder that many family members of murder victims have, embodies a disruption in one's human attachment system. Social support is something that is integral and indispensable when it comes to overcoming this disruption and being able to connect with other people again (de Zulueta, 2007). However, when a victim's own family will no longer speak to them as a result of the death penalty process, or when the victim feels socially ostracized due to their anti-capital punishment views, garnering the social support that is necessary for recovery becomes almost impossible. The loss of attachment with one's own

family can be an especially devastating disruption of their human attachment system, and this loss can trigger re-traumatization. Though this loss is not equatable to the previous loss of their loved one to murder, it is a loss nonetheless. It parallels the dynamic of powerlessness that was triggered by the initial trauma of losing their loved one to murder, along with the re-traumatization experienced during the court proceedings that resulted from the discrimination they faced as an anti-death penalty victim. As a result, ostracism by one's own family serves as yet another avenue for the victim's re-traumatization that was caused by the death penalty.

Re-traumatization is a repetitive occurrence that both pro-death penalty and anti-death penalty family members of murder victims undergo in process of capital punishment. As a result, the pro-death penalty assumption that capital punishment acts as a boulevard towards closure and healing falls flat, and provides yet another justification for the abolition of the death penalty. However, there is an entire subset of victims that are forgotten in the system of the death penalty: the family members of the death row inmates.

The Traumatization and Re-traumatization of Death Row Inmates' Family Members

The initial sentencing of a loved one's execution is traumatizing in and of itself, and in the process of the death penalty, the system of capital punishment exacts elements of re-traumatization onto the loved ones of death row inmates again and again. The system makes it so that these family members experience powerlessness constantly. They are also not provided with any real sympathy for their impending loss, since the loss is meant to serve the greater good of retribution and the exacting of vengeance on the behalf of the family members of the murder victim. However, the sheer amount of trauma, re-traumatization, and overall suffering that the family members of death row inmates are subjected to is not worth this retributive purpose. The

ordeal that they undergo signifies the borderline criminalization of these family members, despite the fact that they are not the ones that committed a crime.

A phrase utilized by scholar John Ortiz Smykla encapsulates the effect of the death penalty, and this phrase is the “circle of impact.” In a study where he interviewed 40 family members of people on death row in Alabama, Dr. Smykla explored the negative emotional impacts inflicted onto the family members of death row inmates. These family members experience prolonged suffering, no matter how long they have been waiting for their loved one’s execution, and the anger, isolation, and toll on physical well-being that comes with this suffering. One interviewee discussed her loved one on death row and said how “even though she’s living, she’s dead” (Smykla, 1987). This painful waiting period acts as a purgatory for these family members who were not even the ones who sinned. This period can last for several years and in some cases, over a decade. Waiting for the execution date can be especially prolonged due to their loved one obtaining several stays of execution, and despite these stays, many of those on death row will still be executed.

Dr. Smykla also notes the distorted grief reactions that family members of death row inmates endure. There is prolonged grief, which is the summation of self-accusation, social isolation, and powerlessness, and “many try to fill this emptiness with alcohol, religion, compulsive working, or moving.” There is also distorted grief, which reveals itself through a variety of actions. These family members can become overactive without experiencing a sense of loss, and this can be seen with actions like getting multiple jobs, or not crying in the wake of their loss. They can also acquire a mental illness. Depression and alcoholism are both common, and suicidal ideation is a frequent symptom among this population. In one case, a woman even

experienced hallucinations when she saw her loved one on death row walk through her front door. She soon realized that they actually were not there and that they had been on death row for years at that point in time. Other distorted grief reactions observed were an alteration of social relationships, which was a symptom of isolation, and an example of this was when family members moved to new neighborhoods where no one knew that their loved one was on death row. Many of these family members even chipped away at their own socio-economic well-being in acts of desperation by making risky financial decisions in order to fund their loved one's defense (Smykla, 1987).

19 families of death row inmates were interviewed in one study, and it was found that the families of death row inmates underwent extreme stress that stemmed from an array of sources, including “the underlying offense, notification that the State is seeking the death penalty, institutional failure, their community, the media, the court, defense attorneys, visitation with their incarcerated family member, notice of execution, and the execution itself.” For instance, institutional failure is especially prevalent with mentally ill defendants, who often dealt with inadequate care and treatment for their mental illnesses throughout their life. Many family members feel alienated from their communities, and face “acute discomfort” from the subtle harassment that is hurled at them with regards to their loved one on death row, which reflects how family members of death row inmates are demonized themselves. This alienation is amplified by the media, since the media is often “problematic and hostile”, and its sensationalism can even wield an impact on the outcome of their loved one's trial. The knowledge that their loved one has ineffective counsel — which is unfortunately very common in capital cases — can also be a source of stress and trauma, since the person that death row inmates often depend on

the most is not worth putting confidence in. With regards to visits — which especially bring out stress when family members live far away from death row and do not have the economic means to visit regularly — in many states, death row inmates are in chains during the entirety of their visitation, and seeing a loved one in chains is painful. One grandfather of a death row inmate “explained that the way he was treated during visits reminded him of the time that he spent as an Austrian dissenter of National Socialism in a Nazi work camp.” It must be said that regardless of whether death row inmates are put in chains during visitation, they are always deprived of physical contact with their visitors due to the fact that they are put in booths that separate them from their visitor with Plexiglass. This deprivation of physical contact is another difficult obstacle that the family members of death row inmates encounter.

The mental health impacts that are noted in family members of death row inmates exist in a plethora. These impacts include depression, functional disability, personality alterations, intrusive thoughts, avoidance, psychological numbness, and hyperarousal, along with helplessness that came from “their inability to ensure that the defendant's story was fully and accurately presented, their inability to address the victim's family, and their inability to hire a high-powered lawyer.” These victims also experience cognitive changes about the criminal justice system, including a heightened distrust and fear of the system. All of participants in this study who experienced intense medical issues associated these issues with the pressure of the capital trial process. Examples of these issues include “the inability to control diabetes and high blood pressure, worsening emphysema, diverticulitis, massive heart attacks, and a rapidly spreading cancer” (Beck, Blackwell, Leonard, and Mears, 2003).

It is often conveniently forgotten that some family members of the executed are children. Elizabeth Beck and Sandra Jones interviewed 19 children of death row inmates and scribed the intense experiences of these children in the article *Children of the Condemned: Grieving the Loss of a Father to Death Row*. These children must deal with the trauma of an untimely death, witnessing how their parent's death is supported by the public, media attention, restrictive visitation rules, and the grief and anxiety that comes with facing this impending death. Children of the condemned cope with nonfinite loss, which is a form of loss that is slow and anticipatory, and it prevents them from entering into the stages of grief that are necessary for dealing with loss. However, the loss is of not only their parent. There is a loss of the ability to share milestones with their parent, and a loss of hope that especially comes with this newfound avenue of resentment for the criminal justice system. In the midst of all this loss, children of death row inmates still wanted relationships with their condemned parent. But these relationships often remain superficial, since these children did not want to burden their parent with their problems. Simultaneously, they also did not want to share the positive aspects and milestones of their life with their condemned parent, due to the fear of their parent being sadly reminded of the fact that they are missing out on their child's milestones. Their relationships were also obviously impacted by the limited interaction that they got with their condemned parent, either speaking through a glass pane (and subsequently being deprived of physical contact) or making expensive prison phone calls. The economic restrictions that impede on family members' ability to visit their loved one are not all that children of the condemned deal with. If the children are under 18, which they often are, they also are required to be accompanied by an adult, which makes visitations even more out of their control and does not allow them to have private time with their

fathers. Disenfranchised grief is unfortunately common for these children. This grief operates in the sense that the public denies them the “right to grieve” due to the stigma and social isolation that comes with being related to a death row inmate, especially if the murder victim in these cases shares a community with the children. In Beck and Jones’s study, it is especially worth noting that a majority of participants either had run-ins with the law or needed treatment for “emotional distress or psychiatric concerns” (Beck and Jones, 2008).

The reactions and experiences that were observed all result in these family members regularly re-experiencing their initial trauma of finding out that their loved one was being sentenced to death. As the definition of re-traumatization that was previously mentioned said, being in a situation that serves as a constant reminder of one’s initial trauma and the dynamics that come with it, such as loss of control and powerlessness, is how re-traumatization manifests itself. The intense emotional, financial, and social consequences that family members of death row inmates face are constantly erased due to their unwarranted villainization in the eyes of the public. These family members, including the children, are not considered victims at all. Their loss is not something that is rendered worthy of sympathy, which makes their re-traumatization even more painful and difficult to overcome.

Conclusion

Re-traumatization makes coping with a violent loss even more difficult to surmount one’s PTSD, which is common among all of the victims discussed in this paper. This ordeal is especially overwhelming when this loss is prolonged and occurring at the fault of the criminal justice system, which is the case with family members of death row inmates. It has been found that PTSD can be passed down through the maternal attachment system (de Zulueta, 2007). As a

result, one could theorize that the trauma of the death penalty could be generationally transmitted if it goes untreated, showcasing that the ripple effect of the death penalty is potentially even wider than we think. The fact of the matter is that there is no reform to the death penalty process that could render re-traumatization to be non-existent. No matter what, the state is still executing a person who has a family that will inevitably be impacted by this loss, and the family member of the murder victims will still be reminded of their loss, even if they choose not to be involved in the capital punishment process. Instead, the criminal justice system must take on a more empathetic approach that does not consider the family members of criminals to be disposable. States with the death penalty must realize how the death penalty serves no beneficial purpose, and how it actually harms the family members of murder victims. The death penalty is simply too inhumane to be a part of the American criminal justice system.

Works Cited

- American Civil Liberties Union. (2012). The Case Against the Death Penalty. Retrieved from <https://www.aclu.org/other/case-against-death-penalty>
- Armour, M. (2003). Meaning Making in the Aftermath of Homicide. *Death Studies*,27.
- Baird, C. F., & McGinn, E. E. (2004). Re-Victimizing the Victim: How Prosecutorial and Judicial Discretion are Being Exercised to Silence Victims Who Oppose Capital Punishment. *Stanford Law & Policy Review*,447.
- Beck, E., Blackwell, B. S., Leonard, P. B., & Mears, M. (2003). Seeking Sanctuary: Interviews with Family Members of Capital Defendants. *Cornell Law Review*,88(2).
- Beck, E., & Jones, S. J. (2008). Children of the Condemned: Grieving the Loss of a Father to Death Row. *OMEGA - Journal of Death and Dying*,56(2).
- Bloom, S. L. (1996). Every Time History Repeats Itself The Price Goes Up: The Social Reenactment of Trauma. *Sexual Addiction and Compulsivity*,3(3).
- Bloom, S. L. (1997). *Creating Sanctuary: Towards the Evolution of Sane Communities*. New York City, NY: Routledge.
- De Zulueta, C. F. (2007). Mass violence and mental health: Attachment and trauma. *International Review of Psychiatry*,19(3).
- Hitzel, S., MSW, Shelly, P., MSW, & Zgoda, K., MSW. (2016, February 18). Preventing Retraumatization: A Macro Social Work Approach to Trauma-Informed Practices & Policies. Retrieved from <http://www.socialworker.com/feature-articles/practice/preventing-retraumatization-a-macro-social-work-approach-to-trauma-informed-practices-policies/>

King, R. (2006). The Impact of Capital Punishment on Families of Defendants and Murder Victims' Family Members. *Judicature*, 89(5).

Murder Victims' Families for Reconciliation. (2002). Dignity Denied: The Experience of Murder Victims' Family Members Who Oppose the Death Penalty.

Nguyen, L. (2011). The Ethics of Trauma: Re-traumatization in Society's Approach to the Traumatized Subject. *International Journal of Group Psychotherapy*, 61(1).

Pod Save America. (2017). "You can't be a woke Hungarian fascist.". Crooked Media.

Smykla, J. O. (1987). The human impact of capital punishment: Interviews with families of persons on death row. *Journal of Criminal Justice*, 15(4).