

The Politics of the DEATH PENALTY

The United States is seeing an alarming increase of the use of the death penalty. **Marlene Martin**, national coordinator of the Campaign to End the Death Penalty, looks at what's behind this rush to execute and how it can be stopped.

WALTER McMILLIAN was forty-four years old when he was sent to Alabama's death row. He was convicted of killing a white eighteen-year-old woman. Walter is Black. After a two-day trial, the all-white jury sentenced him to life in prison. The judge then overruled the jury and sentenced him to death.

Walter was convicted in spite of the fact that there was no physical evidence against him. More than a dozen family members and friends testified that at the time of the murder, Walter was helping his sister run a fish fry to raise money for their church. Walter was convicted on the perjured testimony of three witnesses.

Even more shocking than what happened in the courtroom, Walter was sent to death row while he was waiting for his trial to start. *Walter spent nearly one year on death row before being convicted of anything!*

"No one on death row, no one at the prison, no attorney I have ever spoken with—no one—has ever heard of a capital defendant being placed on death row *prior* to trial and *prior* to being sentenced to death in Alabama," Walter said. "To this day, I do not know why I was placed on death row one year before my trial."¹

Walter looked back on the case in testimony before a Congressional committee: "I have spent hours—too many hours—trying to figure out why I was chosen to be the victim of this terrible injustice. I had no prior felony convictions and had not had difficulties with the law. I had worked hard all my life and had no debts. I had a family and friends and no one that I would consider my enemy. But I had made one mistake. One big mistake in Monroeville, Alabama. I had been seeing a white woman. And my son—he, too, had made one terrible mistake. He had married a white woman."²

Bryan Stevenson, an attorney at the Alabama Resource Center, took up Walter's case. As a result, after spending nearly six years on death row, Walter McMILLIAN was proven innocent and released on March 3, 1993. Unfortunately, most of the innocent prisoners on death row do not get released. Countless inmates will be or have already been executed without anyone ever learning of their innocence. The Alabama Resource Center that helped free Walter has since closed down, as have the other nineteen resource centers around the country—all victims of the budget ax in Washington, D.C.



Texas' death chamber.

NATHSON FIELDS has been on Illinois death row for eleven years. He was sent there by Judge Thomas Maloney. In 1993, the judge was convicted on charges of bribery, obstruction of justice and a host of other charges. Maloney is the first judge ever convicted of corruption in a capital case. He took a bribe from Nathson's co-defendant, Earl Hawkins. But when he learned that the FBI was investigating him, he gave back the bribe. Nathson never tried to bribe Maloney, so he faced the full wrath of the judge.

In September 1996, Judge Deborah Dooling set aside Fields' conviction and death sentence, saying that the case against him did not satisfy the appearance of justice "by the farthest stretch of one's imagination." But timing is everything, and the timing could not have been worse for Nathson Fields. The year 1996 was an election year. On October 9, 1996, less than one month before election day, State's Attorney Jack O'Malley appealed Dooling's decision. O'Malley lost the election, but the new State's Attorney, Dick Devine, is continuing the appeal.

Meanwhile, Nathson Fields continues to rot on death row. Throughout his incarceration, Nathson has maintained his innocence, and he has developed a reputation as an outspoken activist on death row.

Nathson Fields has paid a heavy price for speaking out. He is kept in total isolation—he has no television and is allowed no yard time. As Nathson wrote in a letter to the Campaign to End the Death Penalty, "Life on Illinois' death row is complete madness and cruelty for both the inmate and his family... I have been transferred from prison to prison and targeted for abuse because I have filed complaints this year. The Orange Crush Tactical Team, the special security guards inside the prison named for their orange uniforms, was sent into the condemned unit to enforce a new search rule.

"Inmates were maced and abused. I swiftly filed a complaint

about these abuses. Immediately after, the Orange Crush came to my cell in full riot gear and removed me. I was taken to a shower room in an undisclosed area of the prison. Surrounded, chained and shackled, I was stripped nude as the Tac Team forcefully performed an anal search. In the struggle, I suffered a ten-inch rip on my back which bled and swelled. I was then thrown into a strip cell.”³

Nathson’s wife, Jamilah, spends much of her time trying to bring attention to the cruelties suffered by her husband. At a recent Campaign to End the Death Penalty meeting at DePaul University in Chicago, Jamilah said her husband is abused every time he comes out of his cell to take a shower. As a result, he takes very few showers. Fighting off tears, she described what it is like to visit her husband in prison: “When I visit him, he has a cuff around his neck that is then shackled to the floor. His hands and feet are also shackled as he sits in the middle of this cell like an animal in a cage. We are watched by five guards during the entire visit, and we are not allowed to touch at all. It is so horrible what they are doing to him.”

JOSEPH O’DELL was convicted and sentenced to death for the abduction, rape and murder of Helen Schartner in 1985. The case against O’Dell was flimsy. No hair, dirt or other debris tied O’Dell to the victim. A footprint found at the scene of the crime did not match the imprint of O’Dell’s boot. Police could not prove that a tire track found at the crime scene was made by O’Dell’s car, and cigarettes found at the scene were not O’Dell’s brand.

During his incarceration, evidence piled up that O’Dell was innocent. Much of the prosecution’s case rested on the results of tests which tied bloodstains found on O’Dell’s shirt and jacket with the victim. But more advanced DNA tests conducted in 1990 found that the bloodstains on the shirt matched neither Schartner nor O’Dell. Tests of decomposed blood on O’Dell’s jacket were inconclusive.⁴ In 1994, a federal judge overturned O’Dell’s death sentence based on the DNA testing but left the conviction in place. A Virginia state court later reimposed the sentence. Under Virginia state law, the DNA evidence could not be used to save O’Dell. Virginia has a “twenty-one-day” law that requires that new evidence of innocence be presented within twenty one days of conviction.

O’Dell suffered another injustice at his trial. During the sentencing phase of the trial, the jury was never told they had the option of sentencing O’Dell to life in prison without parole. In 1994, the U.S. Supreme Court ruled that this was unconstitutional. But earlier this year, the Supreme Court refused to apply the rule retroactively to O’Dell’s case.

O’Dell’s case has sparked outrage around the world—Pope John Paul II, Mother Teresa, Sister Helen Prejean and the Italian and European parliaments all called for clemency. But O’Dell was up against Virginia Gov. George Allen, who won election on a promise to step up executions. He has done just that—as of November, Virginia was second only to Texas in the number of people executed in 1997. On July 23, 1997, Allen and the state of Virginia murdered Joseph O’Dell.

These three cases are just a few of the hundreds of tales of injustice that echo through the corridors of death rows around the U.S. The U.S. is the only western industrial nation which still applies the death penalty. Currently, thirty-eight states impose capital punishment—and several others are actively trying to bring it back. And the U.S. is speeding up the machinery of death. The seventy people executed as of November 21 is the highest number of executions in forty years.⁵

With every execution, the barbarity of capital punishment becomes clearer. And it doesn’t even have much to do with whether prisoners are actually guilty. A total of 428 inmates were executed in the U.S. between the time the Supreme Court voted to allow the reimposition of the death penalty in 1976 and the end of October 1997. During the same period, seventy-two prisoners were freed from death row after they were proved innocent. But this fact has made no difference to the politicians who have rushed to pass new restrictions on death-row appeals—guaranteeing that more and more innocent people will be killed.⁶

Behind the rush to execute is the growing use of “law and order” rhetoric by politicians as they push through their anti-worker, anti-poor policies. The use of the death penalty is as much a part of the right-wing, bipartisan attacks on workers and the poor as the repeal of welfare, the scapegoating of immigrants and attacks on unions.

The aim of this article is to review the key arguments against the death penalty and to look at the question of the death penalty in the broader context of crime and punishment under capitalism. Finally, it will look at the struggle to abolish the death penalty and how to do away with it.

THE DEATH PENALTY TODAY

The U.S. today has more than 3,200 people on death row, a larger number than at any time in history. The state of Texas is leading the way. With more than 400 death row inmates, Texas has the largest number of prisoners on death row of any state. And with thirty-six executions between January and November 1997, Texas accounts for over half of the total during that time period.

Such statistics give lie to the idea, still heard from supporters of the death penalty, that the ultimate punishment is necessary to deter the ultimate crime of murder. Texas puts to death more people than any other state, yet it also has more homicides committed each year than any other state. Since the time Texas resumed executions in 1982, its crime rate has skyrocketed. While the national crime rate rose by 5 percent between 1982 and 1991, Texas’ crime rate increased by 24 percent—and the violent crime rate in Texas rose by almost 46 percent.⁷ FBI Uniform Crime Reports show virtually no change in the murder rate at the same time as executions have dramatically increased. Moreover, states which have no death penalty tend to have lower murder rates than those states which have capital punishment.⁸

In its use of the death penalty, the U.S. has a place among some of the most repressive governments anywhere in the world. According to Barbara A. Frey, Executive Director of Minnesota Advocates for Human Rights, “Only a few governments besides the U.S. continue to execute juvenile offenders. Between 1985 and 1990, executions of juveniles are known to have been carried out in five countries: Iraq, Pakistan, Saudi Arabia, Yemen and the United States. During the 1990s, juveniles are known to have been executed in only three countries: Saudi Arabia, Yemen and the United States. Despite the international trend toward abolishing the practice of executing juveniles, the U.S. continues to hold more juveniles on death row than any other country. Since the reinstatement of the death penalty after *Furman v. Georgia*, 125 juvenile death sentences have been imposed on people between the ages of fifteen and seventeen at the time of the crime. Of these imposed sentences, as of October 20, 1994, forty-one remained in force in 13 U.S. states.”⁹

The increased use of the death penalty is part of an overall increase in the numbers of people sent to prison. President Clinton’s 1994 Omnibus Crime Bill and 1996 Anti-Terrorism and Effective Death Penalty Act, both passed overwhelmingly by Democratic Party “liberals” as well as Republicans in Congress,

had a dramatic impact on capital punishment in the U.S. which is just beginning to play out. Not only did the crime bill expand the number of federal crimes punishable by the death sentence from two to fifty-eight, the 1996 bill placed strict limits on death-row appeals. Under the new law, death-row prisoners are limited to one *habeus corpus* appeal which must be used within six months of sentencing. So if evidence of a prisoner's innocence emerges six months and one day after sentencing, it doesn't matter under Clinton's law—it is still one day too late.

WHO GETS THE DEATH PENALTY?

There is very little that is rational about the application of the death penalty in the U.S. In Pennsylvania, one-half of the death-row population comes from a single city—Philadelphia. And in Maryland, the overwhelming majority of those on death row are from a single county located in the suburbs of Baltimore. Obviously, it is not the case that more terrible crimes are being committed in suburban Baltimore or in Philadelphia. The difference is that police, prosecutors and judges there push harder for the death penalty.

But there are two factors that remain constant in terms of who gets the death penalty in the U.S.—class and race.

On January 26, 1996, John du Pont gunned down David Schultz, a member of the U.S. Olympic wrestling team who was living on du Pont's estate. It was a brutal and senseless murder, the type that ordinarily gets the press and politicians baying for the death penalty. But John du Pont was a member of the wealthy du Pont family. He could afford the best legal team, which argued that he was insane at the time of the murder. As a result, he not only escaped the death penalty, but he ended up in a mental institution. Du Pont continues to run his estate from inside the confines of his mental institution.

The du Pont case underlines the fact that justice comes with a price tag in the U.S. As former Florida death row inmate John Spenkelnik once said, "Them without the capital gets the punishment."¹⁰

"I don't know of a wealthy person ever executed in the United States," commented Clinton Duffy, late and long-time warden of New York's Sing Sing prison, who oversaw more than ninety executions.¹¹ Numerous studies show conclusively that defendants who can afford legal representation do not end up on death row. Once they are on death row, few prisoners are able to afford legal counsel to take them through the tortuous

Executions by State Since 1976 (as of 11/21/97)

Texas	143	Indiana	5
Virginia	44	Utah	5
Florida	39	California	4
Missouri	29	Mississippi	4
Louisiana	24	Maryland	2
Georgia	22	Nebraska	2
Alabama	16	Oregon	2
Arkansas	16	Pennsylvania	2
South Carolina ...	13	Washington	2
Illinois	10	Colorado	1
Oklahoma	9	Idaho	1
Arizona	8	Kentucky	1
Delaware	8	Montana	1
North Carolina ...	8	Wyoming	1
Nevada	6		

Source: Death Penalty News and Updates: www.smu.edu/~deathpen

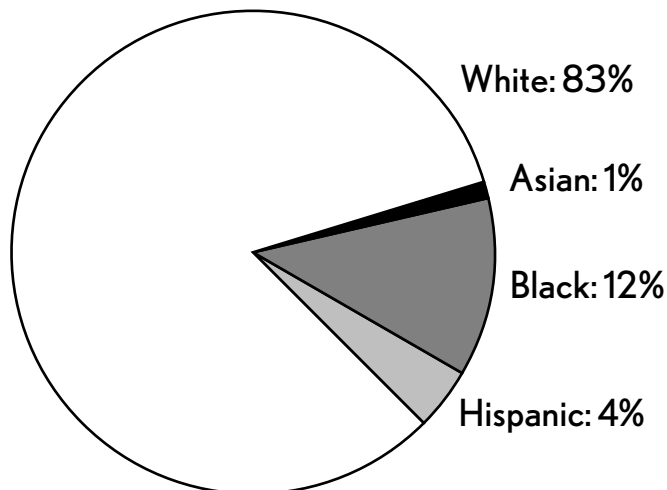
appeals process. "In many instances, it is not just a question of inadequate lawyers; there are simply no lawyers available, especially for appeals. In California, half of the 249 death row inmates awaiting their first appeal have no lawyers, and about 33 new inmates are added to death row each year."¹² As Stephen Bright, head of the Southern Center for Human Rights, put it, "The death penalty is for poor people."

Race is an equally important factor. In 1997, 90 percent of the executions in the U.S. took place in states of the former Confederacy.¹³ The death penalty is used disproportionately against Blacks and other racially-oppressed groups. African-Americans are 12 percent of the U.S. population, but 40 percent of the prisoners on death row. But the race of the crime's *victim* is also key. Jed Stone, a criminal defense lawyer in Chicago, says that the first question he asks when he takes a death-penalty case is about the race of the victim. According to a 1990 study compiled by the General Accounting Office, the "race of a victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks. This finding was remarkably consistent across data sets, states, data collection methods and analytic techniques."¹⁴ Even though Blacks constitute 50 percent of all murder victims, 85 percent of the murder victims in death penalty cases are white. A comprehensive Georgia study found that those accused of killing white victims were 4.3 times more likely to get the death penalty than those accused of killing Blacks.¹⁵

Since 1976, eighty-four Black defendants have been executed for killing a white person, but only four white defendants have been executed for killing a Black.¹⁶ In all, only thirty-one of the more than 18,000 executions in U.S. history involved a white person being sentenced to death for killing a Black person.¹⁷

The last major court case to take up the question of racism and the death penalty was 1987's *McCleskey v. Kemp*. In its ruling, the U.S. Supreme Court did not deny that racism exists within the criminal justice system, but it argued that defendants

Executions by Race of Victims



Source: Death Penalty Information Center Year End Report, December 1996.

FREE MUMIA ABU-JAMAL!

“Don’t tell me about the valley of the shadow of death. I live there.”



So begins the book *Live from Death Row*, by acclaimed writer and political prisoner Mumia Abu-Jamal.

Mumia Abu-Jamal has been on death row for fifteen years for the killing of a Philadelphia police officer. An award-winning journalist, political activist, and one-time member of the Black Panther Party, Mumia has faced one miscarriage of justice after another.

In 1981 Mumia stopped a cab he was riding in to try to stop a police officer from assaulting a Black man. The man turned out to be Abu-Jamal’s brother—stopped for a minor traffic violation. According to eye-witnesses, an unidentified person shot at officer Daniel Faulkner and fled. Mumia was shot in the chest by Faulkner. Witnesses say that Mumia was left bleeding on the curb for forty-five minutes, while police officers took turns beating him.

He was charged with the murder of Daniel Faulkner and sentenced to death in 1982. But from the start the case was full of holes:

- Ballistic experts never matched any of the bullets found in Faulkner’s body or anywhere in the scene to the gun that allegedly belonged to Mumia. The bullet in Faulkner’s brain was a .44-caliber, whereas Mumia’s gun was a .38.
- Police tested the murder weapon for fingerprints, but didn’t find Mumia’s. And Mumia’s hands were never tested for powder burns which would indicate he had fired a weapon.
- Several police witnesses testified that Mumia had confessed on the night of the shooting. But the arresting officer’s report mentions no confession. He was conveniently on vacation during the trial, and Judge Albert Sabo rejected a motion to postpone the proceedings until his return.
- Of more than 125 witnesses interviewed by police, prosecutors picked only two who identified Mumia as the person who shot Faulkner. Both witnesses were facing other criminal charges, making them vulnerable to threats—and deals—from the prosecution. One, Cynthia White, changed her story several times before implicating Mumia in the killing.
- One defense witness, Veronica Jones, testified that police offered her and one of the prosecution witnesses a deal: finger Mumia in court and they could continue to work as prostitutes without being arrested. Judge Albert Sabo ordered these remarks stricken from the court record.
- Four witnesses said that they saw a man other than Mumia flee from the scene of the crime.

From the beginning the odds were stacked against Mumia Abu-Jamal. The trial was held in Philadelphia—a city where 1,200 cases of police misconduct are under review. Over 300 convictions by Philadelphia courts have been overturned because of manufactured or planted evidence used by police to frame innocent people. At least 137 people have already been found innocent and released from prison after their cases were reviewed.

The judge in Mumia’s case, Judge Albert Sabo, has sentenced thirty-two people to death—more than twice the number of people than any other judge in this country. All but two were people of color. The *American Lawyer* described him as “oozing partiality toward the prosecution” in the Mumia case.

Mumia’s 1989 appeal to the Pennsylvania Supreme Court was

overturned and his death sentence upheld.

In Mumia’s 1990 appeal, the Supreme Court upheld the right of prosecutors to use Mumia’s past affiliation with the Black Panther Party in their case against him. Yet seventeen months later, the Supreme Court overturned the death sentence of a Delaware man because prosecutors had presented at his sentencing hearing evidence of his affiliation with the fascist Aryan Brotherhood.

In June 1995, Mumia filed a Petition for Post-Conviction Relief (PCRA) seeking a new trial. The evidentiary hearing on his PCRA was held before Judge Sabo, who (surprise!) denied the petition. Pennsylvania Gov. Thomas Ridge set an execution date for August of that year, but Mumia got a stay of execution in part because of large-scale national and international protest.

Meanwhile, Mumia’s defense lawyers have uncovered an avalanche of evidence backing Mumia’s innocence.

Mumia appealed Sabo’s decision to the Pennsylvania Supreme Court. Last August the court sent Mumia’s case back to the Philadelphia Court of Common Pleas for additional testimony regarding police misconduct.

On October 1, 1996, Veronica Jones came forward and testified that she had been pressured by police to lie in Mumia’s trial. Just as she took the stand to testify to this, Sabo threatened her with seven years in prison for perjury if she gave two conflicting versions under oath. Undeterred, she testified. At the end of her testimony, District Attorney Fisk called in two police officers and had her arrested in the courtroom for having missed a two-year-old court date!

Then, in last June’s hearings, Pamela Jenkins, a sixteen-year-old prostitute and police informant in 1981, testified that she was pressured by police officer Tom Ryan (who was her boyfriend at the time) to identify Mumia as the shooter, even though she was not present at the scene of Faulkner’s death.

Mumia’s case is still pending. If the Pennsylvania Supreme Court denies his appeal for a new trial, then Mumia’s lawyers will file the last appeal allowable. If this appeal is denied, Gov. Ridge has vowed to set a new execution date for Mumia immediately.

Mumia’s attorney Leonard Weinglass recently wrote: “For more than fifteen years, Mumia, who has lived in the shadow of death, has asserted his innocence. The new information brought in the last two years...supports that claim.

“Once again, the American system of criminal justice is being challenged by issues of race, class and politics. The life of a Black political activist lies threatened by those same forces who have historically urged a national system of intimidation and control.

“Nothing short of a complete vindication for Mumia Abu-Jamal, already too late after fifteen years of tortuous incarceration, will prevent yet another injustice in a history already saturated with the blood of innocents.”

Mumia’s lawyers have produced irrefutable evidence of his innocence, yet Sabo and Ridge still refuse to budge. That is why we need to build a mass movement—in Philadelphia and nationally—to stop the legal lynching of Mumia Abu-Jamal. Free Mumia Abu-Jamal Now!

For more information on the Mumia Abu-Jamal case or to get involved in the campaign to free him, contact the Campaign to End the Death Penalty, P.O. Box 25730 Chicago, IL 60625. You can also call (312) 409-7145 or visit the campaign website at www.nodeathpenalty.org.

had to prove that there was *intent* to discriminate. In the court's majority opinion, Justice Lewis Powell wrote: "This evidence of racism is overwhelming, it's not refuted, but what are we supposed to do, declare the whole system unconstitutional?"¹⁸ On the basis of this reasoning, the Supreme Court ruled against Warren McCleskey, opening the way for his execution.

The racism of the criminal justice system goes beyond judges and prosecutors. Many death-row prisoners have been victims of racist defense lawyers. Stephen Bright says that he is aware of four capital cases in Georgia alone where defense lawyers referred to their clients as "niggers." During one trial, a lawyer referred to his client as "a little 138-pound nigger man."¹⁹

Racism among jurors is a very real phenomenon in death-penalty cases—but something which, again, the justice system pays little attention to.

Then there is the role of the police, who have routinely framed suspects and manufactured evidence that has landed many innocent people on death row. Lieutenant Jon Burge of Chicago's Area Two Violent Crimes Unit was fired from the department in February 1993 after it was proved that he regularly tortured Black prisoners. "Burge and the officers under his command were responsible for torturing more than 40 Black men during interrogation. Methods of torture included electric shocks, suffocation hoods, Russian roulette, burns, severe beatings and threats of death.... Even more disturbing, at least nine of Burge's torture victims are under the sentence of death, facing execution."²⁰

One of Burge's victims is Aaron Patterson, who has been on Illinois' death row for eleven years. No physical evidence linked Aaron to the murder for which he was convicted. Aaron was convicted solely on the basis of an unsigned confession police claimed they obtained during a twenty-five-hour interrogation. Police pulled a plastic hood over Aaron's head on multiple occasions, threatening him with suffocation, and one officer threatened him with a gun. Despite this treatment, Aaron refused to sign the confession written out for him by police. City officials claimed to be shocked when the Burge torture scandal came to light in 1993. But none of them have lifted a finger to save the lives of Burge's victims. Aaron Patterson still languishes on death row.

THE LEGAL OBSTACLES FACED BY DEATH ROW PRISONERS

The Death Penalty Information Center warned in July 1997 of an "increasing danger of executing the innocent." The center reported that sixty-nine people have been released from death row since 1973—twenty one of them since 1993. In just the four months after the report was issued, three more people were released.

According to the center's report, the sixty-nine spent an average of seven years on death row before they won their release. This figure is important because recent legislation at both the state and the federal level is aimed at shortening the length of time between sentencing and execution for death-row prisoners. Currently, the average time between sentencing and execution is eight years. "If that time is cut in half, then the typical innocent defendant on death row will be executed before it is discovered that a fatal mistake has been made," the report concluded.²¹

One of the most sickening aspects of the speed-up in executions involves limiting the introduction of new evidence. Every person sentenced to death has a constitutional right to appeal the sentence, but most states have strict time limits on presenting new evidence in court. In Texas, defendants must present new evidence of their innocence within thirty days of conviction in order for it to be considered by the courts on appeal.²² And it was Virginia's "twenty-one-day" rule that claimed the life of Joseph O'Dell.

When courts review a case, they are mainly concerned with procedural mistakes that may have been made during the trial—not whether the verdict was correct. Texas death row inmate Leonel Herrera tried to introduce evidence of his innocence during an appeal (his brother confessed to the crime). In a case that went all the way to the Supreme Court, the court ruled that "actual innocence" was not "relevant" in Herrera's case, since he had filed past the thirty-day deadline. Herrera was executed in 1993. As Justice Blackmun wrote at the time, the "execution of a person who can show that he is innocent comes perilously close to simple murder."²³

Since Blackmun wrote those words, things have gotten much worse for death row prisoners. The federal government cut off funding to twenty legal resource centers which provided assistance to indigent death-row prisoners in 1996. The centers were already too few in number and overwhelmed by the number of cases they tried to handle.

INCOMPETENT LAWYERS

Lawyers realize that death-penalty cases are one of the most difficult areas of law. Add to this the paltry pay for representing indigent defendants and the unfavorable political attention, and it is easy to see why death-row prisoners suffer so severely from inadequate counsel. Prisoners often find themselves with the newest and most inexperienced attorneys handling their cases.

Take the case of James Brewer. After Brewer was found guilty of murder, his lawyer misjudged when a sentencing hearing would begin. When the judge set the hearing for the next day at 9:00 A.M., the lawyer was completely unprepared. Brewer's lawyer waived the opportunity to make an argument, presented no character witnesses and no evidence of his client's history of mental illness (he had been treated with shock therapy, had brain damage from blows to the head, and had an IQ between 58-67.) It is not surprising that the jury returned with a sentence of death.²⁴

There are even stories of defendants facing the death penalty who were represented by attorneys who were drunk or asleep during their trials. Judy Hanley's lawyer was drunk at her trial in 1989—the judge held the lawyer in contempt and sent her to jail. The following day, Judy and her lawyer left jail together to appear at the trial. Hanley was sentenced to death and is still on death row in Alabama.²⁵

Calvin Burdine's lawyer repeatedly fell asleep during his trial. Yet this behavior was excused by judges, who on appeal ruled that it was irrelevant if Burdine's lawyer was awake since the jury would have found him guilty anyway. And in the trial of George McFarland, defense attorney John Benn slept through most of the trial, which he described as "boring." But Judge Doug Shaver of the Texas District Court refused to give McFarland a new trial, arguing: "The Constitution says that everyone's entitled to an attorney of their choice. But the Constitution does not say that the lawyer has to be awake."²⁶

Inadequate and incompetent counsel is not the exception but the rule for death-row prisoners. In 1993, the American Bar Association (ABA) described the representation for indigent death-row prisoners as being in a state of crisis. In February 1997, the ABA voted for a moratorium on the death penalty on the grounds that it is "seriously flawed." In addition to citing the new laws restricting an inmate's right to appeal and federal funding cuts for inmate appeals, the ABA recommendation resolved that "executions should cease until effective mechanisms are developed for eliminating the corrosive effects of racial prejudice in capital cases."²⁷ And the Kentucky Department of Public Advocacy reported that "one-fourth of those under the sentence of death in Kentucky were represented at trial by attorneys who

since had been disbarred or had resigned rather than face disbarment.”²⁸

The speed with which complicated capital murder trials are handled boggles the mind. Far from the experience of the O.J. Simpson trial, which lasted more than one year, capital cases can take as few as one to three days to complete. In Alabama, the average capital murder trial takes three days.²⁹ In Louisiana, Keith Messiah was convicted and sentenced to death in a trial that lasted one day. The sentencing phase of the trial lasted twenty minutes. Messiah remains on death row today.

As Steven Bright wrote in a *Yale Law Journal* article: “The quality of legal representation in capital cases in many states is a scandal. However, almost no one cares. Those facing the death penalty are generally poor, often members of racial minorities, often afflicted with substantial mental impairments and are always accused of serious, terrible crimes... All of this leads to, at best, indifference and, more often hostility toward the plight of those accused.”³⁰

CRIME AND PUNISHMENT IN THE U.S.

It is no surprise that America’s death rows are filled with the poor—and disproportionately filled with Blacks and other oppressed racial minorities. This is simply a reflection of the class bias and racism that is built into the U.S. criminal justice system.

“Justice” is handed out in the U.S. court system in a completely unequal manner. The rich—when their crimes are even acknowledged—typically receive a slap on the wrist, while the poor have the book thrown at them. As Howard Zinn writes in *A People’s History of the United States*, “In 1969, there were 502 convictions for tax fraud. Such cases, called ‘white-collar crimes,’ usually involve people with a good deal of money. Of those convicted, 2 percent ended up in jail. The fraud averaged \$190,000 per case; their sentences averaged seven months. That same year, for burglary and auto theft (crimes of the poor), 60 percent ended up in prison. The auto thefts averaged \$992; the sentences averaged eighteenth months. The burglaries averaged \$321; the sentences averaged thirty-three months.”³¹

The inequalities are even more glaring in the laws governing sentencing for selling cocaine. Under federal law, defendants convicted of selling five grams of crack cocaine—a drug used primarily by the poor—get a mandatory sentence of at least five years. To get the same sentence for selling powder cocaine—typically used by the affluent—defendants must be convicted of selling 500 grams of the drug. In other words, the sentencing ratio is 100 times higher for crack than for powder cocaine. Five grams of crack cocaine are worth around \$125—500 grams of powder cocaine are worth nearly \$50,000. What is more, this sentencing law is consciously racist, guaranteeing that poor Blacks and Latinos will end up in prison for a minor drug offense. Although Blacks account for a minority of the users of crack cocaine, they are a majority of those convicted and sent to prison for possession. The U.S. prison population has tripled since 1980—not with “violent” criminals, as politicians would have us believe, but with those convicted of small-scale drug possession. Nevertheless, in 1996 Congress upheld the 100-to-1 ratio for cocaine sentencing.³²

The same unjust rules apply to capital crimes. Poor people who commit murder face a strong possibility of facing a death sentence. Yet corporate criminals who commit premeditated murder rarely even see the inside of a courtroom. The U.S. legal system allows corporations to deliberately sacrifice people’s lives in order to make bigger profits. There are countless examples of the way corporations *knowingly* cause death and destruction in order to increase profits—as a routine business decision, while the courts look the other way.

In the 1970s, for example, executives from the Ford Motor

Company killed far more people than anyone sitting on death row today. Between 1971 and 1977, an estimated 500 people burned to death in Ford Pintos when their tanks exploded. These were not accidents. Ford executives knew full well that the Pinto’s rear gas tank could explode even upon minor impact. But Ford executives calculated that it would cost them more to recall all Ford Pintos to install an \$11 safety device than it would to wait for the explosions to take place and then pay for damages and medical bills. Ford, however, was acquitted of all criminal charges. No member of the company’s board of directors ever spent a day in jail, even though 500 people died as a result of this “business” decision.³³

Racism and class bias are built into the legal system. Legal reforms can change some of the statistics, but not the underlying fact that the criminal justice system has nothing to do with dispensing justice and everything to do with maintaining the system of inequality that exists throughout society. The well-known defense lawyer and socialist Clarence Darrow spelled this out in a 1902 speech to prisoners at Cook County Jail in Chicago:

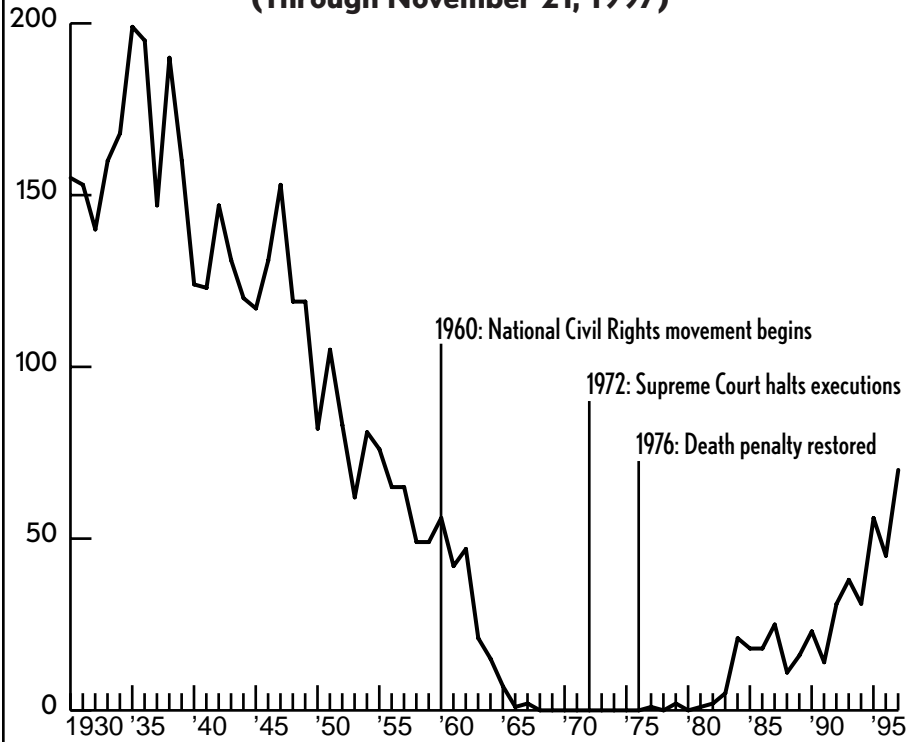
“[T]he fellows who have control of the earth have the advantage of you. See what the law is: when these men get control of things, they make the laws. They do not make the laws to protect anybody; courts are not instruments of justice. When your case gets into court, it will make little difference whether you are guilty or innocent, but it’s better if you have a smart lawyer. And you cannot have a smart lawyer unless you have money. First and last, it’s a question of money. Those men who own the earth make the laws to protect what they have. They fix up a sort of fence or pen to protect what they have, and they fix the law so the fellow on the outside cannot get in. The laws are really organized for the protection of the men who rule the world. They were never organized or enforced to do justice. We have no system for doing justice—not the slightest in the world.”³⁴

THE POLITICS OF THE DEATH PENALTY

Prison construction is a booming industry in the U.S. So is the industry devoted to filling them up with prisoners. Between 1988 and 1990, eight states spent more money for capital expenditures on correctional facilities than on higher education facilities. Texas led the way, spending nothing on schools and \$500 million on prisons.³⁵ And the other forty-two states weren’t far behind. The U.S. incarcerates a larger proportion of its population than any other country in the world. Since 1990, the federal prison population has nearly doubled, increasing from 58,021 to 101,648.³⁶ Yet the crime rate in the U.S. has not changed significantly in more than twenty-five years.³⁷

What *has* changed about U.S. society is not the level of crime or violence but the readiness of politicians to whip up crime hysteria—with support for the death penalty as its centerpiece. But more than anything else, politicians use crime hysteria as a way to scapegoat the poor for society’s problems. It is no coincidence that politicians have become “tough on crime” and cracked down on so-called “welfare cheats” at the very same time that the gap between rich and poor in the U.S. is growing to astronomical proportions. Inequality in the United States today is greater than it has been at any time since the 1920s. For the last two decades, the employers have waged an unrelenting attack on working-class people—through cutting wages and benefits, downsizing and union-busting. Average weekly wages, adjusted for inflation, have fallen by 19 percent since 1972.³⁸ In this context, our rulers use a divide and conquer strategy. They try to divert the public’s attention from attacks on social programs and unions by demonizing and scapegoating the most vulnerable people in society.

Executions in the U.S., 1930-1997 (Through November 21, 1997)



Sources: 1) Herbert Haines, *Against Capital Punishment* (Oxford University Press, New York, 1996), p. 12. 2) Death Penalty Information Center.

Republicans initially pioneered the “law and order” strategy, using it to shift the focus away from urban poverty and white racism in the aftermath of the urban rebellions and radical movements of the 1960s. For example, Richard Nixon’s 1968 running mate, Spiro Agnew, declared, “When I talk about troublemakers, I’m talking about muggers and criminals in the streets, assassins of political leaders, draft evaders and flag burners, campus militants, hecklers and demonstrators against candidates for public office and looters and burners of cities.”³⁹ Nixon himself described the success of the law-and-order strategy in a letter to former president Dwight Eisenhower: “I have found great audience response to this theme, in all parts of the country, including areas like New Hampshire where there is no race problem and virtually no crime.”⁴⁰ In 1972, incarceration rates began to climb in the U.S. for the first time in fifty years.

The Republican presidents of the 1980s pushed the level of racism and crime hysteria to new heights. One of Reagan’s campaign commercials warned, “Every day the jungle draws a little closer. Our city streets are jungle paths after dark... The man with the badge holds it back.”⁴¹ When George Bush ran for President in 1988, he ran a television ad campaign against crime which consisted of a police photograph of a Black repeat offender, Willie Horton. The racist message could not have been more obvious.

The Democrats have followed right along with the Republicans in putting the issue of crime at the center of their program. In fact, there is no better example of how politicians use the issue of crime—and the death penalty in particular—than President Clinton. During the 1992 presidential primaries, then-Arkansas Gov. Clinton returned from the campaign trail to help create a tougher image for himself—by presiding over the execution of Ricky Ray Rector. Rector was mentally handicapped—so handicapped, in fact, that he saved the dessert from

his last meal to eat after he returned from his execution. Despite pleas from family members, lawmakers and death penalty abolitionists, Clinton gave the go-ahead to kill Rector.

And, most importantly, it was Clinton—not Bush or Reagan—who signed the 1994 crime bill and the 1996 “anti-terrorism” bill into law, some of the most repressive law-and-order legislation in U.S. history. The execution statistics tell the most striking story—219 of the 428 executions in the last twenty years were carried out in the last six years.

HOW THE DEATH PENALTY WAS DEFEATED—AND REINSTATED

Though you wouldn’t know it to hear politicians’ enthusiasm for capital punishment today, a nationwide moratorium on capital punishment was declared in 1972. In the case of *Furman v. Georgia*, the U.S. Supreme Court concluded that the death penalty amounted to cruel and unusual punishment because it was applied in an arbitrary manner. The justices called the death penalty “arbitrary and capricious,” and cited a range of factors in their decision, such as racial discrimination, incompetent lawyers, the arbitrary issuing of death sentences and the risk of executing the innocent. Justice Thurgood Marshall wrote in the *Furman* decision: “[T]he American people are largely unaware of the information critical to a judgment on the morality of the death

penalty.... If they were better informed they would consider it shocking, unjust and unacceptable.”⁴²

The American Civil Liberties Union and the Legal Defense Fund were among the organizations which spearheaded the legal challenge to the death penalty. But the key to understanding the *Furman* decision involves much more than the arguments made inside the courtroom. The political climate in the late 1960s and early 1970s in the United States was influenced by the sharp rise in struggle for social change—the civil rights and Black Power movements, the movement against the Vietnam war, and the women’s and gay movements. The impact of these movements was to shift the political tide in the U.S., throwing open the door to other struggles on a range of issues, including abortion rights and affirmative action. There was no mass movement organized specifically around the issue of the death penalty. Only the American League to Abolish Capital Punishment existed as a national organization. But the overall political climate led to considerable organizing around the issue, which put pressure on the Supreme Court to abolish the death penalty.

As Herbert Haines writes in *Against Capital Punishment*:

“Improved governmental responsiveness to civil rights demands did not occur in a vacuum, of course. To a large extent, it was the fruit of years of struggle and sacrifice by the civil rights movement. For if the 1950s were, for advocates of social change, a frozen sea, the civil rights movement tore through it like a huge icebreaking vessel. In its wake, it left relatively open waters through which other ships could sail: movements for peace, environmental protection, women’s and gay rights—and for the abolition of capital punishment. The civil rights movement paved the way by mobilizing members who would later venture into those other movements, by loosening up the political center and making it more receptive to demands

for change of various kinds, and by raising issues that could be applied to other causes.”⁴³

But the abolition of capital punishment lasted only until 1976, when the Supreme Court reversed itself, voting by a 7-2 margin in the case of *Gregg v. George* to reinstate capital punishment on the grounds that states had passed new statutes which safeguarded defendants from arbitrary sentences of death.

The new statutes meant nothing. The death penalty was then, and continues to be, applied in a racist, arbitrary and capricious manner. Justice Harry Blackmun, who voted for the death penalty in both the 1972 *Furman* case and the 1976 *Gregg* case, changed his mind shortly before his retirement. “From this day forward, I no longer shall tinker with the machinery of death,” Blackmun wrote. “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.”⁴⁴

So why did the Supreme Court legalize capital punishment in 1976? In large part, it was a reflection of the rightward shift in the political climate. Even the Supreme Court justices would admit the impact this had on their ruling. “Both Stewart and White, who had been in the majority in *Furman v. Georgia*, but who switched sides four years later, cited the post-*Furman* public and legislative reaction in their opinions. Both made reference to California’s constitutional referendum, to a Massachusetts referendum in support of the death penalty and to the opinion poll trends.”⁴⁵

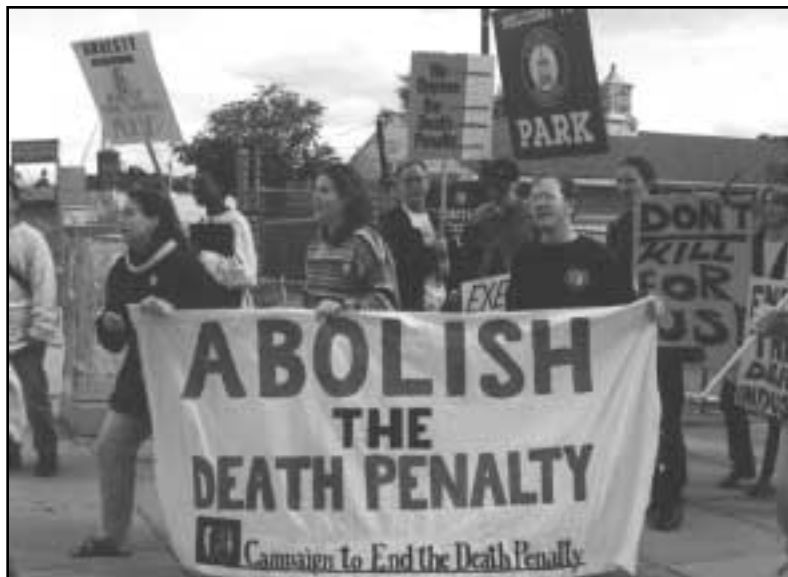
THE LIMITS OF REFORMISM

Historically, liberals and revolutionaries have clashed over how best to build opposition to the death penalty. This reflects a fundamental political difference. Unlike liberals, revolutionaries oppose the right of the capitalist state to impose the death penalty in all circumstances. This contradiction is clear even today. How can activists who support or belong to the Democratic Party be consistent opponents of the death penalty when their party’s platform is in favor of it? Indeed, Democratic politicians are among those pushing capital punishment the hardest.

The case of Sacco and Vanzetti offers a good example. Nicola Sacco and Bartolomeo Vanzetti—two Italian anarchists active in the Boston labor movement—were accused of murdering a paymaster and his guard in 1920. Sacco and Vanzetti were sentenced to death after their politics were put on trial in a lynch-mob atmosphere orchestrated by the judge and prosecutors.

Over the next seven years, millions of people around the world participated in the fight to save Sacco and Vanzetti. Again and again, there were debates over how to organize the fight—whether to build a large, vocal movement that mobilized mass opposition or to rely solely on using reasoned arguments to sway the powers that be. Sacco and Vanzetti themselves had very little faith in the U.S. justice system. They put their faith in the organized working class that was taking up the fight for them. Vanzetti wrote in 1926, “Only the people, our comrades, our friends, the world revolutionary proletariat can save us from the powers of the capitalist reactionary hyenas, or vindicate our names and our blood before history...”⁴⁶

But liberals insisted that a mass movement would alienate those in power. Their deference can be heard in the letter sent by the editors of the *Nation* magazine to Gov. Alvan Fuller: “You have won a reputation in your State for independence and courage.... Facts within our knowledge embolden us to believe



that, as an honest and fearless man, you will face the great issues presented to you in the Sacco-Vanzetti case without shrinking and with a determination to get at all the facts.... We know that their release from unjust imprisonment will strengthen the prestige of Massachusetts rather than injure it.”⁴⁷

But Fuller did not grant clemency nor commute the sentence. All the appeals fell on deaf ears, and Sacco and Vanzetti were finally executed in 1927. Millions of people around the world mourned their death and turned away in disgust from a system so obviously riddled with inequality and indifference to justice.

The same arguments would resurface in the struggle to save the Scottsboro Boys in the 1930s. The Scottsboro Boys were nine Black youths falsely accused of raping two white women on a freight train in Alabama. The National Association for the Advancement of Colored People (NAACP) did not want a protest movement to save the nine Boys, and instead argued for “a policy of gentle pressure through the courts and Congress...”⁴⁸ The mothers of the Boys decided to ask the International Labor Defense (ILD)—an organization associated with the Communist Party—to defend the Boys, rather than the NAACP. ILD members recognized the need to build a political struggle out of the case—as radicals had in the case of Sacco and Vanzetti a decade earlier. They understood that an all-white jury in Alabama would never try the Scottsboro Boys fairly, regardless of how much “gentle pressure” was applied. The ILD built speaking tours featuring the boys’ mothers—which drew thousands of supporters. Communist Party members built demonstrations in cities across the U.S. in which hundreds—and sometimes thousands—of Black and white workers marched side by side in support of the Scottsboro Boys. It took many years, but the campaign to save the Scottsboro Boys eventually succeeded. In 1950, the last of the Scottsboro Boys was finally freed from prison.

The arguments over strategy continue today, and the urgency has never been clearer, with politicians clamoring for greater use of the death penalty. In October 1997, Massachusetts Gov. Paul Celluci used the murder of a young child to whip up support for legislation to reinstate the death penalty. Riding a wave of public horror at the killing, Celluci tried to push the bill through as quickly as possible. Sadly, he had help from the best-known liberals in the state government—who kept their mouths shut.

As the *Boston Globe* described the situation: “[W]hen the Senate

debated the issue Tuesday, three leading Democrats, all capital punishment foes and all candidates for higher office, kept a low profile. Although he insists the death penalty is bad criminal-justice policy, Attorney General Scott Harshbarger, who as immediate past president of the National Association of Attorneys General could bring expertise to the issue, was nowhere to be seen and made no calls to senators. Also absent was another Democrat widely respected in the Senate, Patricia McGovern, the former chairwoman of that body's Ways and Means Committee. She is running for governor. In the Senate, Lois Pines, a Newton Democrat and a candidate for attorney general...didn't speak once during the long debate over reinstating the death penalty... 'It is a *fait accompli*,' Pines said of the vote."⁴⁹

Pines was wrong. The vote was not a *fait accompli*. Even though the initial legislation passed in both houses of the Massachusetts legislature, it passed through the House of Representatives by just one vote. A week later, when the final bill was put to a vote again, the vote in the House ended in a tie. The vote was 80 to 80, and the legislation was defeated.

In such a situation, rather than sitting in silence, it is crucial that death penalty opponents fight to be heard. As radio talk show host Jim Braude put it, "[C]hoosing to sit out the Senate debate because the vote was allegedly a foregone conclusion misses a fundamental point. You aren't just lobbying a couple of dozen legislators but talking to the hundreds of thousands of people watching at home. Never is the public's attention more focused, and never is the obligation to speak out more profound."⁵⁰

Nevertheless, the state's largest anti-death penalty organizations had kept a low profile during the debate. They argued that organizing a large demonstrations would only make it more difficult for anti-death penalty legislators—and that legislators could be trusted to "do the right thing." But this strategy was completely

wrong-headed. It meant that politicians felt only pressure from those clamoring for the reinstatement of the death penalty. Legislators who had been lifelong opponents of the death penalty changed sides under that pressure.

Fortunately, members of the Campaign to End the Death Penalty organized the first open opposition to Celluci's drive to reinstate the death penalty, beginning with a press conference that drew wide media attention. The press conference featured Professors Howard Zinn and Bill Keach, along with a member of Murder Victims Families for Reconciliation (MVFR). They presented a principled and coherent argument which challenged the pro-death penalty hysteria. The Campaign—which followed up this press conference with demonstrations—helped to shift the political tide, so that the public mood no longer seemed unified and the death penalty bill no longer seemed unstoppable. In the close vote in the Massachusetts House, that shift had a real impact, when a single representative changed his mind and voted against the death penalty.

The vote was close, but the death penalty was defeated in Massachusetts. This small example goes a long way to showing that it pays to stand up and fight—and that a large and vocal movement can abolish the death penalty once and for all.

WHAT CAN WE DO TODAY

Among those fighting the death penalty today, many are focused on lobbying politicians, on trying to improve prison conditions or on providing legal aid to death-row prisoners. Many of these are worthy activities. But they deal only with the consequences, not the cause, of the death penalty. The death penalty is the product of a system which *is based upon* injustice and inequality—class society. As such, racism is a central feature of capital punishment. State-sponsored murder is a barbaric practice within a barbaric system—it can never be dispensed "fairly."

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NEWSLETTER OF THE CAMPAIGN TO END THE DEATH PENALTY



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Check this box if you would like to join the Campaign, and we'll put you in touch with other activists where you live.

The decisions we make today about what kind of movement we are building are extremely important. As Bill Keach told reporters before the recent Massachusetts vote: “Events of the past few days have made it clearer than ever before how crucial it is that the debate over capital punishment be carried out in the communities and in the streets and in the meeting halls. We cannot leave it up to the politicians.”⁵¹

Today, a growing number of activists see the need to create a broad movement that can stop the death penalty altogether. This aim is not at all far-fetched. The death penalty was stopped in 1972 and it can be stopped now. Public opinion polls show that a majority of people support the death penalty. But this support is a mile wide and an inch deep. Since most people have never heard an argument against the death penalty, they don’t realize the injustices of the capital-punishment system. Opinion polls make this clear. A 1993 poll, for example, showed that 58 percent of those surveyed said they would be disturbed if the death penalty resulted in the death of someone who is innocent.⁵² If most people knew, therefore, the truth behind the execution of Leonel Herrera, Joseph O’Dell or countless other innocent prisoners, they would probably stop supporting the death penalty. Many people can be won to opposing the death penalty—and to building a movement to stop capital punishment. Today, we are at the beginning of building such a movement.

And opponents of capital punishment have already accomplished a great deal. In 1995, after Pennsylvania Gov. Tom Ridge set an execution date for former Black Panther Mumia Abu-Jamal, activists mobilized around the world to stop the execution. The outpouring of support was, as Mumia himself said, the key to winning a stay of execution. In California, organizing against the scheduled execution of Tommy Thompson in the summer of 1997 helped win a stay. Over the last several years in Wisconsin, Washington, D.C. and Massachusetts, activists mounted protests against attempts to bring back the death penalty and played a crucial role in stopping its reintroduction.

The fight to end the death penalty can be won. The victory in 1972 showed that. But the fact that the death penalty was reinstated in 1976 also provides a crucial lesson. Under capitalism, reforms that are won can just as easily be taken away. “The justice of the bourgeois classes,” the great Polish socialist Rosa Luxemburg once wrote, is “like a net,” which allows “the voracious sharks to escape, while the little sardines were caught.”⁵³ The death penalty is a barbarous machine which destroys the lives of working-class and poor people driven to desperation by a system that breeds poverty and desperation. In order to abolish the death penalty once and for all, we must put an end to the class society that breeds such barbarism. We must win socialism.

¹ Walter McMillian, “Statement to the United States Judiciary Committee, April 1, 1993,” *The Machinery of Death* (Amnesty International, 1995), p. 159.

² *Ibid.*

³ *The New Abolitionist* (Newsletter of the Campaign to End the Death Penalty), November 1997.

⁴ *Socialist Worker*, August 1, 1997.

⁵ Herbert Haines, *Against Capital Punishment* (New York: Oxford University Press, 1996), p. 12. See also the December 1997 *Execution Alert*, a monthly rundown of pending execution cases published by the National Coalition to Abolish the Death Penalty. The most up-to-date statistical information on executions nationally and by state can be found at a website called “Death Penalty News and Updates”: www.smu.edu/~deathpen.

⁶ Many death penalty statistics in this article come from The Death Penalty Information Center (DPIC), an excellent resource for information and arguments against the death penalty. They can be accessed on the web at

www.essential.org/dpic. Another excellent source is the Southern Center for Human Rights, in Atlanta, Georgia, and located on the web at www.schr.org.

⁷ “The Future of the Death Penalty in the U.S.: A Texas-Sized Crisis,” DPIC (May, 1994).

⁸ “Facts about Deterrence and the Death Penalty,” Death Penalty Information Center (1997).

⁹ Barbara Frey, “Juveniles and the Death Penalty,” in *Machinery of Death*, p. 79.

¹⁰ David Von Drehle, *Among the Lowest of the Dead*, p. 37.

¹¹ Bob Weinstein and Jim Bessent, *Death Row Confidential* (New York: Harper, 1996), p. 115.

¹² Richard C. Dieter, “With Justice for Few: The Growing Crisis in Death Penalty Representation” (Death Penalty Information Center).

¹³ *New York Times*, October 14, 1997.

¹⁴ Quoted in “Capital Punishment on the 25th Anniversary of *Furman v. Georgia*,” Southern Center for Human Rights, June 26, 1997, p. 3.

¹⁵ *Ibid.*, p. 4.

¹⁶ Richard C. Dieter, “Twenty Years of Capital Punishment: A Reevaluation,” DPIC (June, 1996).

¹⁷ “Five Reasons to Oppose the Death Penalty,” brochure published by the Campaign to End the Death Penalty (1995).

¹⁸ “Capital Punishment on the 25th Anniversary of *Furman v. Georgia*,” op. cit.

¹⁹ Stephen Bright, “Race, Poverty and Disadvantage in the Infliction of the Death Penalty in the Death Belt,” in *Machinery of Death*, pp. 122, 129.

²⁰ “John Burge Was Fired for Torture: But Some of His Victims Are Still On Death Row Despite Evidence of Innocence,” brochure published by the Aaron Patterson Defense Committee (1995).

²¹ Richard C. Dieter, “Innocence and the Death Penalty: The Increasing Danger of Executing the Innocent,” DPIC (July 1997).

²² “The Future of the Death Penalty in America: A Texas-Sized Crisis” (DPIC, May 1997), p. 22.

²³ Phil Gasper, “Cruel and Unusual Punishment: The Politics of Crime in the U.S.,” *International Socialism* 66 (London: Spring 1995), p. 70.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Bruce Shapiro, “Sleeping Lawyer Syndrome,” the *Nation*, April 7, 1997, p. 27.

²⁷ Resolution approved by the ABA House of Delegates, February 3, 1997.

²⁸ “With Justice for Few,” op. cit.

²⁹ *Death Row Confidential*, op. cit., p. 117.

³⁰ “With Justice for Few,” op. cit.

³¹ Howard Zinn, *People’s History of the United States* (New York: Harper Perennial, 1980), p. 506.

³² Craig Reinerman and Harry G. Levine, “Real Opposition, Real Alternatives: Reducing the Harms of Drug Use and Drug Policy,” *Crack in America*, Reinerman and Levine, eds. (University of California Press, 1997), p. 351.

³³ Gerry Spence, *With Justice for None* (New York: Penguin, 1989), p. 201.

³⁴ Clarence Darrow, “Address to the Prisoners in the Cook County Jail; 1902,” *Attorney for the Damned* (New York: Simon and Schuster, 1957), pp. 11-12.

³⁵ William J. Chambliss, “Crime Control and Ethnic Minorities: Legitimizing Racial Oppression by Creating Moral Panic,” Darnel F. Hawkins, ed., *Ethnicity, Race, and Crime* (New York: SUNY, 1995), p. 241.

³⁶ *Chicago Tribune*, November 28, 1997.

³⁷ “Facts about Deterrence and the Death Penalty,” op. cit.

³⁸ Joel Geier and Ahmed Shawki, “Contradictions of the Miracle Economy,” *International Socialist Review*, Issue 2, Fall 1997, p. 8.

³⁹ Gasper, op. cit., p. 63.

⁴⁰ *Ibid.*, p. 64.

⁴¹ Gasper, op. cit., p. 65.

⁴² Sister Helen Prejean, *Dead Man Walking* (New York: Vintage, 1993), p. 117.

⁴³ Herbert Haines, *Against Capital Punishment* (New York: Oxford University Press, 1996), p. 41.

⁴⁴ Cited in Bright, “Capital Punishment on the 25th Anniversary of *Furman v. Georgia*,” op. cit., p. 1.

⁴⁵ Haines, op. cit., p. 54.

⁴⁶ Max Shachtman, “Sacco & Vanzetti: Labor’s Martyrs,” *International Labor Defense*, 1927, p. 51.

⁴⁷ *Ibid.*, p. 57.

⁴⁸ Paul D’Amato, “Blacks and the Communist Party in the 1930s,” *International Socialist Review*, Issue 1, Summer 1997, p. 35.

⁴⁹ *Boston Globe*, October 23, 1997.

⁵⁰ *Ibid.*

⁵¹ *New York Times*, October 26, 1997.

⁵² Richard C. Dieter, *Sentencing for Life: Americans Embrace Alternatives to the Death Penalty*, DPIC, April 1993. See also William Bowers, “Capital Punishment and Contemporary Values: People’s Misgivings and the Court’s Misperceptions,” in Robert M. Baird and Stuart E. Rosenbaum, eds., *Punishment and the Death Penalty* (New York: Prometheus Books, 1995), pp. 223-240.

⁵³ Rosa Luxemburg, “Against Capital Punishment,” *Rosa Luxemburg Speaks* (New York: Pathfinder, 1994), p. 397.