

# The Penalty of Death (1926)

by H.L. Mencken

Of the arguments against capital punishment that issue from uplifters, two are commonly heard most often, to wit:

1. That hanging a man (or frying him or gassing him) is a dreadful business, degrading to those who have to do it and revolting to those who have to witness it.
2. That it is useless, for it does not deter others from the same crime.

The first of these arguments, it seems to me, is plainly too weak to need serious [refutation](#). All it says, in brief, is that the work of the hangman is unpleasant. Granted. But suppose it is? It may be quite necessary to society for all that. There are, indeed, many other jobs that are unpleasant, and yet no one thinks of abolishing them--that of the plumber, that of the soldier, that of the garbage-man, that of the priest hearing confessions, that of the sand-hog, and so on. Moreover, what evidence is there that any actual hangman complains of his work? I have heard none. On the contrary, I have known many who delighted in their ancient art, and practiced it proudly.

In the second argument of the abolitionists there is rather more force, but even here, I believe, the ground under them is shaky. Their fundamental error consists in assuming that the whole aim of punishing criminals is to deter other (potential) criminals--that we hang or electrocute A simply in order to so alarm B that he will not kill C. This, I believe, is an assumption which confuses a part with the whole. Deterrence, obviously, is one of the aims of punishment, but it is surely not the only one. On the contrary, there are at least half a dozen, and some are probably quite as important. At least one of them, practically considered, is *more* important. Commonly, it is described as revenge, but revenge is really not the word for it. I borrow a better term from the late Aristotle: *katharsis*. *Katharsis*, so used, means a salubrious discharge of emotions, a healthy letting off of steam. A school-boy, disliking his teacher, deposits a tack upon the pedagogical chair; the teacher jumps and the boy laughs. This is *katharsis*. What I contend is that one of the prime objects of all judicial punishments is to afford the same grateful relief (*a*) to the immediate victims of the criminal punished, and (*b*) to the general body of moral and timorous men.

These persons, and particularly the first group, are concerned only indirectly with deterring other criminals. The thing they crave primarily is the satisfaction of seeing the criminal actually before them suffer as he made them suffer. What they want is the peace of mind that goes with the feeling that accounts are squared. Until they get that satisfaction they are in a state of emotional tension, and hence unhappy. The instant they get it they are comfortable. I do not argue that this yearning is noble; I simply argue that it is almost universal among human beings. In the face of injuries that are unimportant and can be borne without damage it may yield to higher impulses; that is to say, it may yield to what is called Christian charity. But when the injury is serious Christianity is adjourned, and even saints reach for their sidearms. It is plainly asking too much of human nature to expect it to conquer so natural an impulse. A keeps a store and has a bookkeeper, B. B steals \$700, employs it in playing at dice or bingo, and is cleaned out. What is A to do? Let B go? If he does so he will be unable to sleep at night. The sense of injury, of injustice, of frustration will haunt him like pruritus. So he turns B over to the police, and they hustle B to prison. Thereafter A can sleep. More, he has pleasant dreams. He pictures B chained to the wall of a dungeon a hundred feet underground, devoured by rats and scorpions. It is so agreeable that it makes him forget his \$700. He has got his *katharsis*.

The same thing precisely takes place on a larger scale when there is a crime which destroys a whole community's sense of security. Every law-abiding citizen feels menaced and frustrated until the criminals have been struck down--until the communal capacity to get even with them, and more than even, has been dramatically demonstrated. Here, manifestly, the business of deterring others is no more than an afterthought. The main thing is to destroy the concrete scoundrels whose act has alarmed everyone, and thus made everyone unhappy. Until they are brought to book that unhappiness continues; when the law has been executed upon them there is a sigh of relief. In other words, there is *katharsis*.

I know of no public demand for the death penalty for ordinary crimes, even for ordinary homicides. Its infliction would shock all men of normal decency of feeling. But for crimes involving the deliberate and inexcusable taking of human life, by men openly defiant of all civilized order--for such crimes it seems, to nine men out of ten, a just and proper punishment. Any lesser penalty leaves them feeling that the criminal has got the better of society--that he is free to add insult to injury by laughing. That feeling can be dissipated only by a recourse to *katharsis*, the invention of the aforesaid Aristotle. It is more effectively and economically achieved, as human nature now is, by wafting the criminal to realms of bliss.

The real objection to capital punishment doesn't lie against the actual extermination of the condemned, but against our brutal American habit of putting it off so long. After all, every one of us must die soon or late, and a murderer, it must be assumed, is one who makes that sad fact the cornerstone of his metaphysic. But it is one thing to die, and quite another thing to lie for long months and even years under the shadow of death. No sane man would choose such a finish. All of us, despite the Prayer Book, long for a swift and unexpected end. Unhappily, a murderer, under the irrational American system, is tortured for what, to him, must seem a whole series of eternities. For months on end he sits in prison while his lawyers carry on their idiotic buffoonery with writs, injunctions, mandamuses, and appeals. In order to get his money (or that of his friends) they have to feed him with hope. Now and then, by the imbecility of a judge or some trick of juridic science, they actually justify it. But let us say that, his money all gone, they finally throw up their hands. Their client is now ready for the rope or the chair. But he must still wait for months before it fetches him.

That wait, I believe, is horribly cruel. I have seen more than one man sitting in the death-house, and I don't want to see any more. Worse, it is wholly useless. Why should he wait at all? Why not hang him the day after the last court dissipates his last hope? Why torture him as not even cannibals would torture their victims? The common answer is that he must have time to make his peace with God. But how long does that take? It may be accomplished, I believe, in two hours quite as comfortably as in two years. There are, indeed, no temporal limitations upon God. He could forgive a whole herd of murderers in a millionth of a second. More, it has been done.

*"The Penalty of Death" was first published in Prejudices: Fifth Series by H.L. Mencken, 1926.*