Pondering the Death Penalty, Even for the Boston Bomber

Alan E Garfield
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We may lock them up. We may decide that they should never be released. But "We the People" do not kill when we don’t have to. We want so powerfully to repudiate the values of those who kill innocents that we refuse to kill the guilty.

And while Dzhokhar is a member of religious (Muslim) and ethnic (Chechen) minorities, few seem to think the jury’s decision was tainted by prejudice.

So why not execute him? Death penalty opponents might say the process of execution is so flawed that it amounts to cruel and unusual punishment. The Supreme Court is considering this very issue during its current term.

Many states use a three-drug protocol to execute inmates. But opponents say that the first drug used by some states – midazolam – often fails to put the condemned into a “deep, coma-like unconsciousness.”

Consequently, when the second drug (which causes respiration to cease) and the third drug (which induces cardiac arrest) are administered, the condemned suffers intense pain as occurred in a recent horribly botched execution in Oklahoma.

But surely this is a temporary problem. It is largely due to a shortage of more effective drugs for inducing unconsciousness because the manufacturers refuse to sell their products for use in executions.

States may need to find an alternative means for executing people, but why not execute Dzhokhar once a solution is found?

Which leaves us face-to-face with the ultimate question: If we assume Dzhokhar committed the crime, that his trial was fair, and that an acceptable execution procedure exists, why not execute him?

The jurors had an opportunity during the “penalty” phase of Dzhokhar’s trial to consider mitigating factors that weighed in favor of sparing Dzhokhar’s life and aggravating factors that weighed in favor of taking it. They heard the evidence. They deliberated. They chose death.

If, in these circumstances, Dzhokhar still should not be executed, the reason lies in something wholly divorced from questions about Dzhokhar’s guilt or innocence, the fairness of his trial, or the availability of a humane – if such an oxymoron thing exists – procedure for killing someone.

If a reason exists, it lies within us, not Dzhokhar or the process that condemned him. It would be our collective decision not to execute someone even when it is within our power and right to do so.

But why would we make such a choice?

We would do so because we are everything that Dzhokhar Tsarnaev is not. The Dzhokhars of this world deny that life is sacred. They think it is within their right to rob an 8-year-old boy of a lifetime’s worth of adventures or to mutilate the leg of a dance teacher who depended upon it for pleasure and income.

If we choose not to execute these criminals, it is not because they deserve to live. It is because, unlike them, we so cherish life that we spare even those who deserve to die.

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