The death penalty: Justice for Whites?

If you want to commit a murder make sure you are a white person, have a fat wallet for a good legal defense and kill a person of color, recommended David R. Dow, the moderator of Black, Brown and Invisible: Minorities on Death Row, a roundtable discussion about the death penalty at University of St Thomas on Sep 22.

“80 percent of the people who are put to death in the United States are put to death for killing a white person,” said Dow, distinguished professor of law at the University of Houston Cullen Law Center, death row attorney and founder of the Texas Innocence Network, “… of the last 30 defendants who have faced the death penalty in Harris County... 27 of the defendants have been people of color. Three of them white.”

On Wednesday, Troy Davis and Lawrence Brewer were executed 4 hours apart from each other; Davis in Georgia and Brewer in Texas.

“When Brewer was executed, he became the third white death row inmate in Texas who was executed for killing a black person, the second was Lee Taylor and the first is Larry Hayes,” Dow said.

According to Amnesty International, “the majority of death row defendants have been executed for killing white victims, although African-Americans make up about half of all homicide victims.” Their data shows that since 1976, 77 percent of homicide victims in cases resulting in execution were white, 15 percent African-American, 6 percent Hispanic and 2 percent other.

The three roundtable participants agreed racial bias influences death penalty convictions and focused on the cases of Ricardo Aldape Guerra and Anthony Graves, two people of color convicted to death but who were proven innocent after years of persistence in court and money invested for their release.

The panel first focused on the international impact of the Ricardo Aldape Guerra case. At the age of 20, Aldape was wrongfully sentenced to death for the first degree murder of a Harris county police officer on October 13, 1982, when all evidence pointed to his roommate as the shooter. Evidence surfacing when Scott Atlas came to his defense in 1992, demonstrated that police intimidation and prosecutorial
misconduct in the original trial caused the jury to convict Aldape based on his illegal immigration status in the United States.

“[The case] represented a clear example of how, through errors in legal proceedings, there exists the possibility of innocent people being executed,” Ampudia said.

Only through the involvement of then former Consul General of Mexico, Ricardo Ampudia, the Mexican government, and Atlas and his legal defense team did the Harris County district attorney’s office ask the state court to dismiss the charges against Aldape in April of 1997, 14 years after being incarcerated. At age 35, Aldape died in a car accident only four months after receiving his freedom.

“Aldape provided the humanistic profile of a fact that many perceive exclusively as a difference of opinion,” Ampudia said.

Atlas was also impacted by his involvement in the Aldape case.

“I used to be an unquestioning supporter of the death penalty,” Atlas said. After his experience in a five-year struggle to win what he assumed would be a speedy case because of the evidence in favor of Aldape, he believes “the process is in desperate need of improvements.”

The panelists presented the case of Anthony Graves as another example of the racial flaws in death penalty convictions. Graves had been convicted of killing a 45 year old mother, her 16 year old daughter and four children under the age of 9. Though Anthony always proclaimed his innocence, “his case is a little bit different….because Anthony is African-American and his victims or the victims of the crime were also African-Americans,” Casarez said.

Based on the lack of evidence against Graves and the key witness recanting, Casarez was successful in obtaining a reversal of his conviction in 2006. Caserez said, “I thought Anthony was going home … Texas decided it would re-prosecute Anthony based on the same old terrible evidence. “

Casarez continually referred to the similarities between Graves’s case and Troy Davis’ execution, despite his claims of innocence and several witnesses having recanted their testimony. Referring to Graves case she says, “It was a miracle, an absolute miracle that it came out right and that’s scary.”

Graves was finally released in October, 2010, after being declared an innocent man. He had been in jail for 18 1/2 years. Casarez fought persistently to get the state to compensate Graves and help him reintegrate into society. “He actually has adjusted amazingly well,” Casarez said.

The Department of Justice Bureau of Justice Statistics states that there were 52 Executions during 2009, 24 of which were in Texas. The nationwide total for those sitting on death row was 3,173, in 2009, in sharp contrast to the 131 total inmates awaiting execution in 1953, a 242 percent increase. The U.S. Census data shows the population totaling 154,233,234, in 1950 and 308,745,538, in 2010, an increase of 49 percent over 60 years. The disparity in numbers is staggering.
The death penalty continues to be a controversial topic worldwide. And many anti-death penalty advocates claim it isn’t reducing the number of crimes committed. Statistics agree. According to the US Department of Justice, states that have the death penalty have higher crime rates than those that do not.

Those in favor of the death penalty believe it to be a crime deterrent and effective means of punishment for the crime committed while protecting the public, but Ampudia disagreed.

“The death penalty does not take someone’s impulse to commit homicide,” Ampudia said.

The statistics and exonerations show the system is flawed and based more on the race of the victim than the heinousness of the crime. Based on these facts, more thought needs to be put into how the United States proceeds with capital punishment.

“There are serious violations of the human rights of persons facing the possibility of being executed for having committed a crime that our society has judged to be ‘serious’” Ampudia said, “Do you really feel that the harm done by a criminal, whatever the seriousness of the crime, is remedied by executing him or her inside the death chamber?”

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