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Killing Terrorists: A Policy Dilemma

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Title: Killing Terrorists: A Policy Dilemma

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Abstract. This article explores difficulties in defending a policy for sentencing terrorists with capital punishment.

Many antiterrorist and counterterrorist experts advocate capital punishment for individuals convicted of terrorism in which terrorist victims have died. There are a number of concerns that mitigate against such advocacy.

First, there is often some degree of disparity between what an individual is convicted of and what the individual actually intended and/or has done. (Some epistemological analysts would contend that there always is some such disparity.) In that capital punishment can be at least partially directed by elements of the legal process at those terrorist elements that didn't happen but are legally judged to have happened, such punishment--which once rendered has no means of being overturned--is misdirected. The same applies when sentencing is directed at other elements of the convicted individual that have little or nothing to do with terrorism, other elements of terrorism that have little to do with the individual, and yet other elements that have little to do with terrorism and the individual.

Second, the notion of a capital punishment penalty--as an option, as a sentence, and as a carried out sentence--serving a deterrent or rehabilitative function appears problematic. The penalty can easily be construed as further justification of the worthiness of the terrorist target--e.g., a government--having been and continuing to be a terrorist target. Part of this is turning the convicted terrorist into a martyr. More of this is adding another egregious act to the list of egregious acts perpetrated by the terrorist target.

Third, the notion of capital punishment as punishment appears problematic. To some convicted terrorists, carrying out the sentence is a vehicle for omission training or positive reinforcement, not punishment. For other convicted terrorists, the consequences of capital punishment may be, indeed, punishment but in other ways unpredictable--given that the consequences of punishment often are unpredictable. With such a consequential range ascribed to capital punishment and punishment, the notion of capital punishment as satisfying society's needs to punish a convicted terrorist also appears problematic. Moreover, employing the rationale of a hypothetical construct--e.g., society--as a rationale for formally sanctioned death is the ultimate substantiation of reification.

Fourth, capital punishment--once carried out--precludes the possibility of the convicted terrorist becoming a witting or unwitting information source that can help impede further terrorist incidents.

Fifth, an argument can be made that the governmental killing of terrorist killers is uncomfortably close to an unfortunate isomorphic parallelism with terrorist killing. In both cases, a formally constituted political authority judges that the political acts of others legitimately warrant a lethal response. Here, a government policy may emulate and elicit terrorist policy.

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Sixth, killing terrorists facilitates suicidal terrorism by increasing the probability that terrorism will, indeed, be suicidal. And suicidal terrorists will, indeed, take note.

Seventh, there are strong arguments that can be made against the ethics and morality of killing, period.

Terrorism through killing has long been an effective mode of achieving political objectives. Perhaps, this is because it presents the terrorist with a win-win situation--dead or alive. (See Haney, C. (1997). Commonsense justice and capital punishment: Problematizing the "will of the people." *Psychology, Public Policy, & Law*, 3, 303-337; Kury, H., & Ferdinand, T. (1999). Public opinion and punitivity. *International Journal of Law & Psychiatry*, 22, 373-392; Norris, M.R. (1997). Both sides of the capital punishment Issue. *Caribbean Journal of Criminology and Social Psychology*, 2, 77-84; Valliant, P. M., & Oliver, C. L. (1997). Attitudes toward capital punishment: A function of leadership style, gender and personality. *Social Behavior & Personality*, 25, 161-168; Weiser, B. (March 19, 2000). U.S. is warned against executions in embassy bombings case. *The New York Times*, p. 48.) (Keywords: Terrorism, Political Violence.)