

Opinion: It's important to understand why some people support capital punishment

August 4 2015, by Christopher Bennett

After eight years on death row, Yakub Memon, who was convicted in 2007 for his role in financing the deadly 1993 Mumbai bombings in which 257 people died, [was hanged at a prison in Nagpur, India](#).

Memon was only the fourth person to be executed in India since 2004. He was the only one of 11 people convicted for the bombings to have his death sentence upheld on appeal. The sentences on the others were commuted to life imprisonment.

The execution has sparked a debate in India, and globally, about the ethics and effectiveness of the death penalty. "This morning, the Indian government essentially killed a man in cold blood to show that killing is wrong," [Aakar Patel, executive director, Amnesty International India, told reporters](#).

"This execution will not deliver justice for the 1993 Mumbai blasts. It is a misguided attempt to prevent terrorism, and a disappointing use of the criminal justice system as a tool for retribution."

Right or wrong

Wherever the death penalty is maintained, controversy is never far away. But how should we think about the issue? The controversy suggests that the debate is not yet settled - though even saying that might be controversial. For some on both sides, their position is an emblem of

loyalty to a wider political outlook. But when lives are at stake we need to think – and tread – carefully.

A lot of recent academic writing on the death penalty avoids direct confrontation with its rightness and wrongness. This is not to say that those who discuss this urgent issue are neutral, or indifferent, or that they scrupulously approach their studies in a value-free way.

Rather, writers tend to imply an ethical position – often that the death penalty is barbaric and ineffective – that informs their discussion, but which they do not make explicit or defend against its alternatives.

Is it simply obvious that there is nothing to be said in favour of the death penalty? Is someone who even raises the question whether justification is possible already someone we should refuse to engage with? I don't think things are that simple. Although I am no supporter of the death penalty, I don't find it an easy matter to dismiss the modes of thought that underpin such support.

To start thinking about this, let's distinguish two broad types of justification for capital – or any other – form of [punishment](#). Let's call the first type "forward-looking": this type of view says that punishment is justified only if it is a good way of bringing about some future benefit such as lower crime, or greater public safety. The second type we can call "backward-looking": it says that what justifies punishment can be something that looks back to the crime itself, independently of whether it brings any future benefit.

A clear example of a backward-looking view would be that punishment should be carried out in order to avenge the victim. When someone is motivated by revenge, it is not the thought of some wider social benefit that is driving the avenger; rather their mind is focused on looking back at the offence, cancelling it by visiting appropriate retribution on the

wrongdoer.

A lot of progressive thinking about the death penalty rests on the view that, firstly, backward-looking views of punishment cannot be justified; they are barbaric – or at any rate unfortunate – throwbacks to earlier modes of thought. Secondly, although forward-looking views are more plausible, it is at best not proven that [capital punishment](#) serves any future good, such as [detering crime](#).

However, this view doesn't even begin to get at the complexities of the issue, and doesn't exhaust the resources of a progressive position.

First of all, is it true that forward-looking views are more plausible? A purely forward-looking view would claim that the mere fact that punishment is an effective deterrent would be enough to justify the punishment. What's wrong with this is that it would justify executing an innocent person just as much as a guilty one in any situation in which executing the innocent would do just as much to reduce crime.

It seems obvious, then, that we need to say that executing a [guilty person](#) is different from executing an innocent person. But it's hard to see how you can explain that without reaching for the backward-looking views: for instance, that the guilty person, in (say) taking the life of another person, has thereby (because of the offence and not because it will bring about some future benefit) lost some of his or her own rights and that it is now all right to treat him in ways that it would not previously.

Secondly, there is more to be said for the backward-looking views than is often noticed. Often, backward-looking views are dismissed as forms of revenge. However, it is far more plausible to see the backward-looking views as expressions of moral seriousness. It is hard to see how one can be serious about, say, human rights, without at the same time thinking that one has to do something to mark the seriousness of

violations of human rights.

If we don't react towards those who treat others brutally then we act as though it doesn't matter that people act in that way. Where the real arguments about the death penalty need to happen is over the question whether taking rights and wrongs seriously needs to result in the perpetrator being asked to give up their life.

Making amends

My own view is that we can orient our thinking about punishment by connecting it to apology and making amends. Say someone was to be really sorry for what they had done and wanted to make it up – I think that looking at what they would be motivated to do is an excellent guide for thinking about how, and how much, it would be right to punish them.

For instance, if someone had burgled a home and stolen goods, but began to feel afterwards that they had done something deeply wrong, they might want to return the goods. That much is obvious – but they might also want to do something to help the person they had burgled (and if that was impossible, perhaps to undertake some constructive alternative).

My thought is that the kind of thing that they might spontaneously choose to do if they were genuinely sorry is the thing that constitutes the appropriate sentence for that offence. Of course, for many offences this might not give us the kinds of punishments that we are used to: custody, fines, and so on. Rather it suggests that something like community service punishments make much more sense. That's a revision to current practice that my theory would recommend.

Now imagine that we are thinking, not about burglary but about aggravated murder. Looked at from my theory of punishment, we might

say that the central question about the death penalty is: could someone ever do something so terrible that they might then, quite reasonably, think that they needed to kill themselves? I think no; but I don't think we can immediately dismiss someone who says yes. But if the person who says yes were to be right, and if the right punishment for a crime derives, as my view says, from our considered intuitions about what someone would need to do to make adequate amends, it would follow that sometimes the right sentence for very serious crime is life.

What I have tried to illustrate here – though I don't endorse it – is one reasonable route to support for the death penalty. There may be others. If we want to argue against the [death penalty](#), we need to get beyond unreflective rejections of backward-looking views and try to understand more fully the range of reasons people might have for supporting it.

Provided by University of Sheffield

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