

## Overview

### Reseña

**José Enrique Gómez Álvarez\***

**Márquez Mendoza, Octavio.** *Death penalty and Bioethics. Reflections for the 21st century.* UAEM, México, 2009, pp. 155

The book exposes the conceptual and empirical framework surrounding the discussion on the death penalty. The text, although it has been published for several years, is still valid as it shows the edges around this issue. The author thus managed to show, that there are elements in History that raise the inevitable doubt of why almost all cultures have thought of capital punishment as a radical «olution» to violence, being the same, as a fact of extreme violence. The author points out that: “The central question lies ... in considering whether the death penalty represents an efficient instrument of the judicial structure, pondering the reasonableness of its application in the civilizing framework” (p. 20).

To achieve the above stated the work is divided into three chapters. The first “Legal historical context of the death penalty” (pp. 23-63). The chapter begins by making some legal distinctions, such as the concepts of punishment and crime. Some legal positions are also briefly discussed in order to establish the definition of the

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\* PhD in Philosophy from the University of Navarra. Master in Social Gerontology. Professor and researcher at CISAV. Contact: jegomezalvarez@yahoo.com

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death penalty: "... it is the punishment legally imposed by the State on the offender ... in order to preserve the legal and social order through the suppression of life" (pp. 30-31). The chapter continues like this in the description of the death penalty in Greece, Rome, the position of ancient, medieval, and modern christianity as well as other thinkers. The chapter also addresses what happens in other non-Western nations, and ends with the position that is given in Mexico, where an abolitionist stance had prevailed, until in 2004 the death penalty was abolished in its entirety. The author reviews the best-known procedures of execution such as decapitation, hanging, guillotine, gas chamber, and shooting execution, among others. Likewise, it summarizes historically the abolitionism and presents the positions that defend it.

In the second chapter "The death penalty in the light of psychoanalysis" (pp. 65-98), Dr. Marquez points out: "Given that the death penalty is not a historical reminiscence, but because it is a current reality, its practice assumes a background of elementary principles that influence individual and collective behavior, whose consequences can be addressed from the psychoanalytic reflection" (p. 65). The author tells us that psychoanalysis uses the conceptual elements of the life and death impulses or instincts, as categories of analysis. The chapter explores the notions of Eros and Thanatos, totem and taboo to understand the phenomenon of capital punishment. The summary of the chapter is well established in the conclusions of the book: "sheds light [psychoanalysis] on the motivations of individual matrix that affect societies. Moreover, it even explains the origins of the legal instrument from its remote behavioral roots. The emergence of ancestral factors, their impulse reading with its base in antithetical instincts, suggest a substrate of permanent conflict between the tendencies towards life and towards death" (p. 135).

The third chapter "Death Penalty and Bioethics" (pp. 99-134), addresses the central theme of the book. The author outlines the notion of Bioethics and uses, among other elements, the principles

of Beauchamp and Childress in the ethical analysis of the death penalty. Thus, for example, it states, "By resorting to the principle of autonomy in the application of the death penalty, multiple testimonies could be cited that question their respect for it. Just consider the methods of pressure that are usually used during the legal process, to induce the behavior of the accused, forcing him to validate the version of reality that is presumed to be true" (p. 109).

The death penalty and human rights are analyzed in the same chapter. Where it is possible to highlight, as the author does, the resolution 2005/59 of the UN that affirms that the abolition of the death penalty is essential for the right to life.

In section 3.3 bioethical arguments against the death penalty appear. Among these, the author points out the following: 1) Life is an inviolable right. 2) Life implies potential or capacity for regeneration. 3) The crime is multi-determined, the death penalty being not a solution to this. 4) The law of the Retaliation (An Eye for an Eye) must be broken. Ethics implies breaking the circle of violence. Another argument is that capital punishment indicates the civilizing level of the different communities. The death penalty also creates more victims, besides being a sign of authoritarian regimes.

The chapter closes with the final criterion to oppose the death penalty that is, the human dignity. Thus, the abolitionist position can so be summarized, from the perspective of Bioethics: "... any act that attempts against it [human dignity], would be considered arbitrary, breaking the unconditional respect for human rights ... Person and body would participate in the same configuring impulse, in an irreducible form. Consequently, the death penalty contradicts human dignity since it reifies what is humane, reducing man to a mere destructible object" (p. 133).

The book closes the conclusions (pp. 135-139), where it raises the summarized arguments of the text.

The book provides new elements, especially psychoanalysis, in this issue that continually reappears, when the spiral of violence increases and the impulse to apply the law of Retaliation (An Eye for an Eye) appears as a supposed balancing order of the community.