



Washington state's racist death penalty

Guest Opinion: Washington state's justice system provides less justice and more penalty to those who aren't as lily-white as its juries.

By Hubert G. Locke

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There have been a slew of reminiscences and reflections on race in America in the last month, occasioned by the 50th anniversary of the March on Washington. Some have been nostalgic and most are well-meaning, but, only a few have focused on those arenas of American life in which little if any progress has occurred over the past fifty years. Of these, none is more glaring or critical in importance than what we have come to loftily refer to as the criminal justice system.

The criminal justice process is the proverbial canary in the racial coal-mine that is American society. Take a measure of how well or how poorly criminal justice is administered — how fairly and equitably it distributes its sanctions and punishments — and one has a pretty accurate picture of how far the scales of justice are either in or out of balance in the nation.

Because it is the ultimate sanction that can be imposed, the application of the death penalty, while an admittedly grim yardstick, is nevertheless one of the most consistent measures of justice and equality in America. Precisely because it focuses attention on individuals who are officially judged to be the least desirable members of our society, any flaws in the process of condemning them to death are dismissed far too easily. In the final analysis, for many people, they get what they deserve — no matter how questionable the process of getting them to the execution chamber might be.

Accordingly, many Americans are disinclined to ask questions about capital punishment — about how and when it is applied, to whom and under what circumstances. These very questions loom large in a current Washington death penalty case in our state resting in the final stages of litigation.

Because the death penalty, when it is invoked, inevitably involves unimaginably despicable stories, it's easy to become caught up in the individual horror of a given case and to avoid looking at the process by which guilt is determined and the sentence of death is imposed. This case is no exception. It embodies the classical racial stereotype of a heinous crime and its aftermath: a 34-year-old black man charged with the rape and murder of a 12-year-old white girl, convicted and sentenced to death by an all-white jury.

Some will read this and find nothing amiss. Others, however, will pause — precisely because of the stereotyped circumstances involved — and ask whether the process by which the condemned man is scheduled to be executed is one that is fair and equitable. Is it a process by which anyone found guilty of a comparable crime under similar circumstances would likely receive the same punishment?

If this question is asked in our fair state, the death penalty becomes a jungle of contradictions. Prosecutors in Washington state often seek — or do not seek — the death

penalty for totally inexplicable and inconsistent reasons. The courts in our state are renowned for reversing imposed death sentences. Over half of those imposed since capital punishment was reinstated in Washington in 1981 have been reversed. The racial disparities on Washington's death row, however, remain one of its most glaring features.

Since 1981, the majority of those sentenced to death have been white, but only two of those white sentencees have been executed. The rest have had their death sentences vacated and a lesser sentence imposed or their cases ordered to be retried.

This leaves us with the current death row populace. There are eight men awaiting execution in Walla Walla. Four are black. All four were sentenced to death by all-white juries. In other words, one-half of Washington's death row populace is black in a state where black residents are less than four percent of the total population.

Faced with similar contradictions and inconsistencies elsewhere, state legislatures around the nation are moving to abolish capital punishment. Where legislatures lack the backbone to do so, several courageous governors — including that of our neighbor to the south — have simply ordered the practice to be suspended. It's a moral plate up to which many of us hope our governor will step.

Over fifty years ago, in a case on another matter, the Supreme Court ruled that “the cruel and unusual punishment clause” of the Constitution “must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.” It's high time for our state to update its standard of decency and declare the abolishment of the death penalty in Washington state.

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