

Western anti-Semitism is exactly what it seems, a fixation. It is an uncontrollable outburst directed at a constant and by now weakened or transformed target, which indicates more about the emotional problems of the fixated than about their object of attack. Neocons have come far on remarkably little talent, and they have taken over a gentile conservative establishment without changing their social democratic colors.

The reason they have moved so far so fast has less to do with their intrinsic merit than the moral collapse of the once conservative movement they have occupied. But this almost bloodless victory has left the victors nervous. Those who rule what they still consider alien territory feel insecure about themselves and their subjects. They express their insecurity by lashing out at the heritage of ideas which now lies at their feet — and whose older defenders would have despised them as upstarts.

Their special repugnance for Eliot (and for his admiring biographer Russell Kirk) is thus understandable from this perspective. Eliot would have disdained neocons, even if he had taken their money in time of need for articles they could bowdlerize.

Though a wimp anti-Semite at best, who will have been unlikely to fulfill Raphael's fantasy and to have become a prominent Nazi collaborator if Hitler had conquered England, Eliot was a snob nonetheless. He would have happily scorned the *Weekly Standard's* editors together with the Australian press baron who mistakes his uncouth employees for aristocrats. And so they have gone after this decorous, dead WASP as the personification of a world from which neocons feel deservedly excluded. ■

Punishment — Capital!

by Michael Levin

The capital punishment debate is heating up. Because the Bronx DA has vowed never to seek death no matter how heinous the offense, the Governor of New York recently barred him from trying a carjacker who killed a policeman. Tim McVeigh and the Unabomber—the best-known post-O.J. suspects—

will almost certainly face capital charges. Not that the average person cares what the American Philosophical Association is up to, but its actions are a good guide to liberal-elite thinking, and I am told it is ready to condemn “legal murder.” (One of

America's leading abolitionists is a philosophy professor, Hugo Bedau.). It's a good time for friends of liberty to clarify their view of the question.

As a rule, libertarians mistrust capital punishment because they don't want to cede government the power of life and death. However, once the state is granted the right to administer lesser punishments, it cannot be denied the right to kill. Consider that John Locke, nobody's idea of bloodthirsty, *defined* “political power” as “a right of making laws with penalties of death and, consequently, all less penalties.” Why did Locke take infliction of death to be fundamental? Well, the state must be able to enforce whatever it commands, or it is a state in name only. The question then becomes how far it may go to overcome resistance.

If the state has no right to kill, and can press lawbreakers to obey

it up to the point of lethality but no further, a lawbreaker can defy the state by resisting so vehemently that only lethal force will bring him to heel. Since the state can't kill him, it must let him have his way. Suppose I won't pay a speeding ticket. Agents of the state (hereinafter “the cops”) come to my house to collect. I still won't pay. When the cops move to arrest me I pull a gun. At this point they can either shoot me or back off. With no right to shoot me the cops must go home, I have speeded with impunity, and the state has been rendered impotent.

Once the state is entitled to compel me, it is entitled to do so with lethal force, and once it is granted that right, denying it use of punitive lethal force is straining at a gnat. If you're going to deny the government the right to take life, you might as well repudiate government itself. Libertarians may see no problem here: just cut the Gordian knot and declare government illegitimate. Unfortunately, the basic problem of capital punishment remains. After all, libertarians are committed to rights and the need to protect them; their distinctive idea is that private enforcement, perhaps through contracting agencies, is more efficient than public.

But then the old question comes right back: How far can you or your agency go in constraining the behavior of a perceived rights-violator? Do you have the right to kill him if he won't remove his hand from your pocket? Do you have a right to threaten death for a grievous enough violation of your rights, and follow through? Can you transfer this right to your enforcement agency? Once again, it appears, all your other rights would be nullities without this “executive” right. So libertarians must deal with the same Clausewitzian axiom that leads to state-sponsored executions: the serious use of legitimate force must escalate to the max.

The issue is whether anybody,

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public or private, has a right to take life. Of the many arguments against this prerogative, the most common is that "death is different." An innocent man executed can't be resurrected—once a mistake is made, that's it. (Abolitionists who admit capital punishment deters usually take this argument to outweigh it.) *But exactly the same is true of incarceration*, the abolitionist's favored alternative.

A 20-year-old man is given a life sentence for a crime he didn't commit. Fifty years later the error is discovered and he is released. Now suppose that all during his life he values five years of freedom over one year of life; that is, he would trade death after five years of confinement for death after four years of liberty. By his lights, the fifty years behind bars have robbed him of ten years of life. Ah, you say, but the error is corrigible, for he still has life left after his release. Yes, *but it may not be enough*. He must live ten more years just to regain the years lost in prison; if he dies at 75, he has lost five years absolutely. As far as he is concerned, he would have lived longer had he been wrongly executed at 65!

The numbers in this example are arbitrary, but the basic point applies to just about everyone. Most of us would forego a little life (a week, say) to avoid a long prison term. That being so, "incarceration is different," and every innocent man imprisoned loses some irreplaceable life.

A second ploy popular with abolitionists is the cost and delay of execution. Right now it takes on average 12 years to execute a condemned man. The seemingly endless appeals process costs taxpayers more than \$1 million per case. But executions are costly and time-consuming precisely because of abolitionist obstructionism—and it is absurd to oppose a policy on grounds of cost and then explain that it is costly because you oppose it. The

abolitionist has been compared to a man who advises you that your watch is defective, and, when asked why, points out the glue he has poured into the works.

Next comes race; capital punishment is said to discriminate against blacks. Actually, liberals think everything discriminates, and that society should come to a screeching halt until this ubiquitous evil has been ended. Since bias-spotters see discrimination everywhere, their conclusions about the justice system—which they scrutinize closely and selectively—are a bit confusing. Especially harsh penalties for crimes involving the crack form of cocaine were once demanded to stop crack from "decimating the inner cities." When the overwhelming majority of crack criminals turned out to be black, these same statutes were condemned as racist.

Now, the abolitionist complaint about capital punishment is not that blacks are executed at a higher rate than whites, since blacks commit murders at a higher rate than whites, and in fact the ratio of black to white murderers exceeds the black/white ratio on death row. The complaint, rather, is that murderers of whites are more likely to receive the death penalty than murderers of blacks.

The statistical support for this is unimpressive. One study using data from Georgia for 1979-1982 claimed that killers of whites were executed 6% more frequently when type of homicide is held constant; other experts told the Senate Judiciary Committee (which held hearings on the question in 1992) that the discrepancy vanishes when other factors, like previous sentencing history, are controlled for.

To my mind a discrepancy as

small as 6%, even if genuine, does not show that "society values white lives more than black" (a favorite liberal slogan), and in any case the discrepancy is best explained by race differences in temperament. No one denies that blacks are more impulsive than whites (although whites somehow get blamed for this), and blacks also appear to be less empathetic. The greater impulsivity means that blacks commit proportionally more non-capital homicides than whites—of family members during quarrels, of acquaintances in bar fights, and the like.

The race of the victim of such impulse-killings is almost always that of the perpetrator, so blacks are disproportionately often the *victims* of non-capital homicides. On the

other hand, murders committed in the course of a felony are usually capitalized, and not only do black felons commit most of the armed robberies and murders in the US, they are much more apt to pick a white victim than a white felon is to pick a black victim. (3% of white crimes are com-

mitted against blacks, while half of all black crimes are committed against whites.)

It is not just that blacks are much more likely to murder whites than vice-versa, although this is indeed so: In Georgia between 1979 and 1982, when bias was supposed to be operating against blacks, 233 whites were murdered by blacks while 60 blacks were murdered by whites. (Since blacks make up 26% of the population of Georgia, this means that blacks murdered whites more than seven times as frequently as whites murdered blacks.) The important point is that lower levels of empathy mean that blacks are more likely to kill felony victims—out of a desire to remove witnesses,

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frustration at getting too little money, or bravado. Consequently, a white is more likely than a black to *be* a victim of a felony murder that carries the death sentence.

Ultimately, abolitionism strangles on its own internal contradictions. If killing is not so terrible that murderers deserve to die, then killing is not too terrible for the state—or enforcement agencies—to undertake. If killing is as terrible as abolitionists say, if it really is an act of boundless, unredeemable horror, the murderer has committed an act of boundless, unredeemable horror—in which case, one would think, he has lost his right to life. Abolitionists seem to take the position that felony murders are not the worst thing imaginable: executions are.

I have avoided the topic of deterrence to focus on moral issues, and because, to my knowledge, the statistics are ambiguous. That the prospect of dying does deter seems pretty obvious to me, and if death penalty statistics don't reflect this, the delay and uncertainty in its application is probably why. What interests me most about deterrence is what is revealed by the attitude of liberals towards it. I'm not thinking mainly of those who admit imprisonment deters but deny that a swift and sure death penalty does (I'm not convinced anyone actually believes this), or those who don't care whether death deters or not. I'm thinking of the ones who confidently announce that "punishment doesn't deter."

This is one of those rare cases in which a popular opinion comes apart as soon as one thinks about what it means. A punishment, after all, is simply a stimulus that makes less likely any behavior with which

it is associated. In economic language, a punishment lowers the value of anything it is associated with. It is the cost of behavior. So, *by definition*, a punishment deters. In other words, what liberals mean when they announce that punishment doesn't deter is that *there is no such thing as punishment*.

The only reason I can imagine for someone saying something so absurd is wish-fulfillment: liberals don't think it is true, but they would like it to be. The fact is, liberal abolitionists just don't like to see wrong-doers suffer. Liberals opposed to capital punishment usually offer life-without-parole in its stead. But then they bemoan the pointlessness of incarcerating harmless 80-year-olds with heart conditions, the

expense of such incarceration, how three-strikes-you're-in laws are turning prisons into geriatric wards....

In his heart no liberal likes life without parole. He is not even for long sentences. Let a murderer jailed for 25 years (and preferably belonging to a racial minority) learn to read, and, if he has not killed anyone else in the meanwhile, liberals will demand his release. He could be a constructive member of society, they will clamor; keeping him locked up does no good—with liberals ever oblivious to the effect of releasing murderers on the future credibility of long sentences. It's true. Liberals think innocent people, capitalists, and "society" are the true criminals, and murderers their innocent victims. They really do think executing a murderer is worse than murdering a child.

Except, except... There is one argument which, while it will not get a liberal to endorse capital punishment, is guaranteed to disarm his

opposition, as well as bring perspiration to his brow. And this argument has the added virtue of being only syllables long. I offer it to you: Tim McVeigh.

I've kept a careful eye out, and none of the usual abolitionist institutions—the *New York Times*, the *Washington Post*, the ACLU, Susan Sarandon—has said word one about sparing him. He's white, he's sort of right wing, and he is not a victim of mistaken identity. As an experiment, ask any liberal of your acquaintance whether McVeigh should be executed. You'll see squirming, you'll see dancing around the issue, but you won't hear that McVeigh is "sick" and you won't get a flat-out declaration that he should be spared. That *cri de coeur* is reserved for cop-killers and child molesters.■

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Drugs and Federalism

by Llewellyn H. Rockwell, Jr.

The drug war ranks among the most destructive federal programs. Not only is it expensive. Not only does it violate civil liberties. Not only does it allow the feds to abolish the remnants of financial privacy. Not only does it dramatically increase the frequency by which the feds seize property. Not only does it corrupt every big-city police force in the country and many rural ones too. Here is the most crucial point: through a complex change of causation, the drug war empowers the underclass and destroys our communities with crime.

I'm not going to attempt to prove this chain of causation here. In brief, in a free market, drugs would be no more profitable to sell than soap. There would be no par-