



Is the Death Penalty Just?

Carla Mooney

INCONTROVERSY



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Foreword

In 2008, as the US economy and economies worldwide were falling into the worst recession since the Great Depression, most Americans had difficulty comprehending the complexity, magnitude, and scope of what was happening. As is often the case with a complex, controversial issue such as this historic global economic recession, looking at the problem as a whole can be overwhelming and often does not lead to understanding. One way to better comprehend such a large issue or event is to break it into smaller parts. The intricacies of global economic recession may be difficult to understand, but one can gain insight by instead beginning with an individual contributing factor, such as the real estate market. When examined through a narrower lens, complex issues become clearer and easier to evaluate.

This is the idea behind ReferencePoint Press's *In Controversy* series. The series examines the complex, controversial issues of the day by breaking them into smaller pieces. Rather than looking at the stem cell research debate as a whole, a title would examine an important aspect of the debate such as *Is Stem Cell Research Necessary?* or *Is Embryonic Stem Cell Research Ethical?* By studying the central issues of the debate individually, researchers gain a more solid and focused understanding of the topic as a whole.

Each book in the series provides a clear, insightful discussion of the issues, integrating facts and a variety of contrasting opinions for a solid, balanced perspective. Personal accounts and direct quotes from academic and professional experts, advocacy groups, politicians, and others enhance the narrative. Sidebars add depth to the discussion by expanding on important ideas and events. For quick reference, a list of key facts concludes every chapter. Source notes, an annotated organizations list, bibliography, and index provide student researchers with additional tools for papers and class discussion.

The *In Controversy* series also challenges students to think critically about issues, to improve their problem-solving skills, and to sharpen their ability to form educated opinions. As President Barack Obama stated in a March 2009 speech, success in the twenty-first century will not be measurable merely by students' ability to "fill in a bubble on a test but whether they possess 21st century skills like problem-solving and critical thinking and entrepreneurship and creativity." Those who possess these skills will have a strong foundation for whatever lies ahead.

No one can know for certain what sort of world awaits today's students. What we can assume, however, is that those who are inquisitive about a wide range of issues; open-minded to divergent views; aware of bias and opinion; and able to reason, reflect, and reconsider will be best prepared for the future. As the international development organization Oxfam notes, "Today's young people will grow up to be the citizens of the future: but what that future holds for them is uncertain. We can be quite confident, however, that they will be faced with decisions about a wide range of issues on which people have differing, contradictory views. If they are to develop as global citizens all young people should have the opportunity to engage with these controversial issues."

In Controversy helps today's students better prepare for tomorrow. An understanding of the complex issues that drive our world and the ability to think critically about them are essential components of contributing, competing, and succeeding in the twenty-first century.

Justice or Tragedy?

On September 21, 2011, protesters gathered outside a Georgia state prison. Inside, inmate Troy Davis was scheduled to die by lethal injection for the 1989 murder of off-duty police officer Mark MacPhail. Davis maintained he did not shoot MacPhail and witnesses had made a mistake.

In 1989 MacPhail was working a second job as a security guard when he rushed to help a homeless man who was being beaten up by a group of men that included Davis. Prosecutors alleged that when MacPhail attempted to intervene, Davis shot him to death in the parking lot. Although the gun used in the shooting was not found, prosecutors said the shell casings found at the scene were linked to an earlier shooting tied to Davis. At the time, several witnesses identified Davis as the shooter. In 1991 Davis was convicted of MacPhail's murder and sentenced to death.

In the two decades between his conviction and execution, Davis steadfastly maintained his innocence. At his trial, Davis's conviction was largely based on eyewitness testimony. Yet after his trial, seven of the nine eyewitnesses who identified Davis as the shooter recanted or contradicted their testimony. Some of them claimed that police had pressured them into making their original statements. One of those witnesses, Jeffrey Sapp, said, "I got tired of them harassing me. . . . I told them that Troy told me he did it, but it wasn't true. . . . I didn't want to have any more problems with the cops, so I testified against Troy."¹

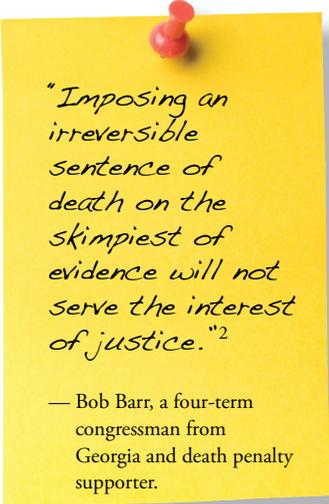
Davis's legal team argued in dozens of hearings before state and federal appellate courts that the lack of physical evidence and

the change in eyewitness testimony should be enough reason to grant Davis a new trial. State and federal courts repeatedly ruled against Davis's requests for a new trial. In a hearing ordered by the US Supreme Court in 2010, Davis was allowed the opportunity to present evidence of his innocence in his petition for a new trial. The judge, however, ruled that although Davis had raised some doubts about his conviction, he had not provided the court with compelling evidence of his innocence. The judge denied Davis's request for a new trial.

As the September 2011 execution date drew near, hundreds of thousands of people signed petitions to spare Davis's life. People around the world called for clemency for Davis. Bob Barr, a four-term congressman from Georgia and death penalty supporter, says in an editorial he wrote on the case, "Imposing an irreversible sentence of death on the skimpiest of evidence will not serve the interest of justice."² A group of former death row wardens wrote to Georgia authorities asking them to halt the execution because of doubts over Davis's guilt. Davis himself offered to submit to a lie detector test, but prison officials declined. The day before his execution the Georgia Board of Pardons and Paroles rejected Davis's plea for clemency.

While many people worked to stop the execution, not everyone believed in Davis's innocence. Over the years MacPhail's family members remained convinced that Davis was guilty of murder. They fought his attempts to obtain clemency. After countless hearings and postponements, MacPhail's widow Joan, son, daughter, and mother still believed in the justice of Davis's execution for the murder of their loved one. "We have lived this for 22 years. We know what the truth is and for someone to ludicrously say he [Davis] is a victim? We are the victims. Look at us. We have put up with this stuff for 22 years and it's time for justice today,"³ said Joan MacPhail.

Believing in his innocence, Davis's supporters staged last-minute vigils to protest his execution. Some urged prison workers to stay home. Others posted a judge's phone number online in the



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— Bob Barr, a four-term congressman from Georgia and death penalty supporter.



On September 16, 2011, supporters of Troy Davis demonstrated in Times Square in New York in hopes of obtaining a reprieve for Davis who was scheduled for execution by lethal injection at a Georgia prison for the shooting death of police officer Mark MacPhail. He was executed on September 16, 2011.

hope others would call and convince him to stop the execution. Several high-profile individuals, including former US president Jimmy Carter and Pope Benedict XVI, publicly called for Davis's execution to be put on hold because of the doubt over his guilt.

Despite efforts to stop the execution, the US Supreme Court denied a late request for a stay of execution. Davis entered the death chamber shortly before 11 p.m. In his final moments he once again asserted his innocence. He spoke to the MacPhail family members present, saying, "I did not personally kill your son, father, brother. All I can ask is that you look deeper into this case so you really can finally see the truth."⁴ At 11:08 p.m. Davis was declared dead.

Flawed System

While MacPhail's family believes Davis's execution served justice for a crime he committed, others believe the case highlights flaws in the country's justice system. In the United States criminal de-

defendants are considered innocent until proven guilty beyond a reasonable doubt. In Davis's case reasonable doubt appeared to exist because critical witnesses changed their testimony. Even so, the US justice system did not reconsider Davis's case or his death sentence. "Troy Davis has become an incredible symbol of everything that is broken, everything that is wrong"⁵ with capital punishment in the United States, says Larry Cox, executive director of Amnesty International's US branch.

After Davis's execution, Jason Ewart, one of his lawyers, said he hoped Davis's case would lead to reforms in the country's death penalty system. "This case struck a chord in the world, and as a result the legacy of Troy Davis doesn't die tonight," he says. "Our sadness, the sadness of his friends and his family, is tempered by the hope that Troy's death will lead to fundamental legal reforms so we will never again witness, with inevitable regret, the execution of an innocent man as we did here tonight."⁶

Ongoing Debate

Public support for the death penalty (also known as capital punishment) has risen and fallen over the years, but the controversy remains intense. Supporters strongly believe the death penalty has value for deterring crime and provides just retribution for the most heinous crimes in society. On the other side, death penalty opponents argue it does not prevent crime and is applied unjustly. In addition, they point out that many nations around the world have abolished the death penalty and urge the United States to do the same.

The controversy over the death penalty has also focused on methods of execution. The widespread adoption of lethal injection for executions nationwide has sparked debate over what constitutes cruel and unusual punishment for death row inmates.

In the death penalty controversy, both supporters and opponents of the death penalty strongly feel they are justified in their beliefs. As a result, the debate over the death penalty continues to be as intense today as it has in the past.

Facts

- More than an estimated fifteen thousand Americans have been executed since the inception of the death penalty in colonial times, according to the ACLU.
- Capital punishment is legal in thirty-two US states.
- Japan is the only industrialized democracy besides the United States that has the death penalty.