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Lethal injection isn't painless

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In virtually all 37 states that still have the death penalty, lethal injection is the favored approach. Are life-ending chemical injections humane?

The people of 13 states have rejected all forms of capital punishment. I, too, reject capital punishment, on a variety of practical and moral grounds. But I used to take consolation in the mistaken belief that the move to lethal injection was a move away from cruel pain and torment.

I assumed that "injection" offered a nearly painless, swift and clinically tidy end -- one objectively preferable to shooting, hanging, gassing or electrocuting. I told myself that government-imposed death might not be so bad without the horrors of splattered blood, toxic gasps, inadvertent decapitation, eyeballs exploding from their sockets, or the pungent smell of burning human flesh.

It is a myth worth dispelling that the modern practice of lethal injection affords a comfortable and dignified end. The current approach to death by injection calls for pumping a trio of chemicals in a prescribed order into a convicted man or woman's veins, generally without the direct aid of a physician.

A case pending before the United States Supreme Court will decide whether the current practice constitutes "cruel and unusual punishment" prohibited by the Eight Amendment. *Baze vs. Rees* places Kentucky's death penalty procedures -- and similar procedures in other states -- under a federal constitutional microscope, forcing us all to examine some grisly realities. Oral arguments should take place this month, and a decision will come by June. A number of states have placed a moratorium on lethal injections pending the court's decision.

New Jersey law authorizes capital punishment by lethal injection. But the state has not executed a death row inmate in decades. In January 2007, the New Jersey Death Penalty Study Commission issued a major report recommending the abolition of all forms of the death penalty. The commission found that "There is increasing evidence that the death penalty is inconsistent with evolving standards of decency."

If you are one of the Americans who think lethal injections are so benign as to be too good for heinous death-row criminals, read the gruesome literature on "botched" procedures. When things go exactly as they should, an inmate scheduled to die is brought to a death chamber and strapped to a table. This alone must be terrifying. As a panel of witnesses looks on, a succession of three drugs is injected into the inmate's veins through plastic tubes, syringes and needles. The first drug, sodium thiopental, is an anesthetic to put the inmate to sleep. The second drug, pavulon or pancuronium bromide, is supposed to paralyze the inmate's muscles. A third drug, potassium chloride, is intended to stop the inmate's heart. Irreversible death soon follows the administration of these drugs.

Often things do not go as planned. Just getting a needle into a vein sometimes proves to be a slow, painful and bloody process. The technicians assigned the chore of venipuncture may be unskilled, inexperienced and lack medical training. Some condemned men and women have been probed dozens of times by technicians to find a usable vein in a hand, arm, foot or neck. In some ironic cases, inmates have tried to shorten their agony by suggesting "good" veins to use.

It is widely believed that medical ethics prevent physicians from taking part in executions. A doctor's mandate is to "do no harm." Intentionally killing a person, whether in the name of euthanasia or state execution, is generally interpreted as doing "harm."

A lack of medical expertise has meant needles have been inserted in the wrong direction, in tissue rather than in a vein, and have become dislodged. Plastic tubing has gotten clogged. When a vein cannot be found or just the right dose of the drugs is not administered, the condemned individual may wind up conscious and writhing in pain for up to an hour or more. Inmates have had unexpectedly violent physiological reactions to the toxic drugs. Witnesses report observing not only squinting, grimacing and moaning, but pained arching, gasping, shaking, flailing and convulsing.

I had to put aside romantic visions of death by poisoning inspired by the head-in-the-clouds art and philosophy I adore. Capital punishment comes across as sad but noble in Plato's writings. Plato described the Athenian approach to capital punishment in the *Phaedo*, one of his most famous dialogues. In the

Phaedo, Plato recounts that the philosopher Socrates was convicted of teaching corrupt ideas to young people. Given a choice between exile and the death penalty, Socrates freely elected death, rebuffing efforts of a friend to help him escape his jailers. With full composure, Socrates drank poison hemlock, grew numb, cold and died -- body and mind intact.

In 1787, Frenchman Jacques-Louis David painted "The Death of Socrates," one of my favorite works of art hanging on the walls of the Metropolitan Museum of Art in New York City. David's masterful canvas depicts an imagined moment in the final hour of the philosopher. The painting shows Socrates erect, reaching for the cup of poison hemlock with his right hand, his left hand raised, index finger pointing upward as if to emphasize an important final point. The people around the sage are frenzied with emotion, but Socrates is calm.

I doubt that typical inmates in our prisons embrace their appointments with poison with philosophic detachment. And there is also the matter of the impact on the other people involved. The New Jersey Death Penalty Commission found that the death penalty imposes adverse "emotional and psychological costs" on "judges, jurors, judicial staff, correctional staff, journalists, clergy and spiritual advisers, as well as the families of the victim and the families of the condemned inmate." How much more so when the process is known to be fraught with physical torment.

What amount of pain or unnecessary pain is tolerable? The Supreme Court is poised to answer this question. The court will tell us what lethal injection techniques and procedures constitute cruelty. Do not expect a surprise ruling that all lethal injections are unconstitutional. The most to expect is that the court will broadly insist on death penalty procedures that spare the condemned predictable forms of severe pain and suffering.

Some of the men and women on death row are there because they have tortured their victims. The public understandably wants these offenders to pay a debt proportional to their hideous wrongs. Still, the Constitution demands more of us than quenching our blood thirst for just deserts.

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