

# Stay of execution: A moratorium on the death penalty

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It took Richard Nixon, a fervent anticommunist, to begin a new era of relations with communist China, and perhaps it takes a Republican supporter of capital punishment to launch a new era of opposition to the death penalty. A few weeks ago Illinois Governor George Ryan declared a moratorium on executions, saying that his state has a “shameful record of convicting innocent people and putting them on death row.”

Ryan admitted what opponents of capital punishment have long maintained: the judicial system is arbitrary in applying the death penalty and is especially unfair to the poor and to African Americans, who often receive inept legal advice. Ryan could not ignore the evidence: 13 inmates on Illinois’s death row have been exonerated of their crimes since 1977, which is one more than the 12 executed in the 23 years since the U.S. Supreme Court allowed states to revive the use of the death penalty. A *Chicago Tribune* investigation of capital cases found that 33 people on death row in Illinois had been represented by lawyers who had been disbarred or suspended from practicing law at some point in their careers.

Illinois has come too close, Ryan said, to the “ultimate nightmare: the state’s taking of innocent life.” The governor said that he would establish a commission to investigate how the death penalty is administered, and that he would not approve further executions until he had “moral certainty that no innocent man or woman is facing a lethal injection.”

Since Ryan’s announcement, legislators in Maryland and Oklahoma have pushed for a moratorium in their states, and similar efforts are under way in Pennsylvania, New Jersey and Washington. The governor’s action also inspired a call for President Bill Clinton to impose a moratorium on federal executions, and it prompted a bill in the U.S. Congress calling for better legal representation of defendants in capital cases and for wider use of DNA tests to establish a defendant’s innocence.

However, the death penalty remains overwhelmingly popular among the public. Support for the death penalty has come to symbolize a tough stance against crime, even though its role as a deterrent to crime has never been established. But as Ryan’s actions show, support for capital punishment can be combined with skepticism about the system that administers it.

Ryan has in fact set a rather lofty goal for reinstating executions, and if sincerely pursued, it may take him further than he expects. Those who want “moral certainty” may find themselves wondering how much moral certainty we can ever have about a system of justice administered by sinful human beings prone to sloth and prejudice.

Of course, justice is always a roughly stitched fabric, and if we seek to live by laws at all we must at some point affirm our judicial system, fallible as it is. But the flaws and corruptions of the system are generally correctable and enduring. Only in capital cases is the judgment incorrigible, the sentence irrevocable. Only in capital cases do we expect a less than innocent judicial system to make an absolute judgment of guilt. As Camus said in “Reflections on the Guillotine,” “If justice admits that it is frail, would it not be better for justice to be modest and allow its judgments sufficient latitude so that a mistake can be corrected?”