The Elie Wiesel Prize in Ethics

Second Prize- 2007

Guilty and Exonerated: Growing Up with the Death Penalty

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555 Madison Avenue, 20th Floor
New York, NY 10022

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My father has sentenced two people to death, but that is a fact that I’ll rarely admit. It’s not exactly shocking; tell someone you’re a District Judge in East Texas, and they’re able to jump to that conclusion on their own. Texas has more people on death row than any other state, and we’re all familiar with the stereotypes, assumptions, and jokes that go along with that. But for reasons I could never fully articulate, I have felt compelled to keep this fact a secret.

The most ridiculous part of my behavior is its futility—my dad’s profession and professional history are both well known. The two capital murder trials he presided over were highly publicized in our town and even in Houston. Every night on the news there would be updates about the trial, flashes of my dad in the courtroom, and daily articles and editorials about the proceedings in the papers. When the sentences were handed down, it wasn’t a hushed affair. Kidnapping and murder is shocking news. We weren’t a small town, but we weren’t a big city, either. People knew the family of the victim, the lawyers on both sides, and, of course, they knew my dad.

He ran for office when I was six years old and since his election, I ceased to be simply the student, or the girl with the brown hair, I was always the judge’s daughter. This wasn’t information privy only to friends or classmates, but my teachers, coaches, and principals as well. For my part, I happily soaked up the attention a distinguished parent with an uncommon career brings. But in fourth grade, the nature of my elementary school fame changed considerably.

I was ten, and a boy two years my senior from a neighboring town had been kidnapped from his home on a Friday afternoon and found dead in the Louisiana swamps four days later, shot twice in the back of the head. The one arrest was of a former cop and lifelong friend of the murdered boy, who had since his infancy referred to him as “Uncle.” He was indicted. It landed in my dad’s court.

The trial started that summer, and my brother, sister, and I were adamant about attending. My dad's attempts at protest were feeble. It was almost as if it was something he thought he should object to, but really didn't have a genuine objection. Still, he refused to allow it until my brother made the *To Kill a Mockingbird* appeal. The book was beloved by every member of our family, dad in particular, and when Joe pointed out that Jem and Scout wouldn't have understood their father and his views on justice unless they had attended Tom Robinson's trial, my dad was flattened. He gave our babysitter directions to the courthouse and gave us the lecture we had long since memorized about appropriate courtroom behavior. The trial started in June, a week after my eleventh birthday.

It wasn't my first time in a courtroom or my first time to hear a trial. Even before my dad was elected, I had gone to work with my mother, who is an attorney in Houston. Once he had his own courtroom, my brother, sister, and I considered it an extension of our house. We would spend weeks of every summer watching proceedings and during recess would play hide-and-seek in the courtroom, the pivotal locations being the jury box, the witness stand, and the bench. But as we were ushered into the back row for this trial, the atmosphere was different. The courtroom was packed. The victim's family wore all black and sat in the front row. There were three extra bailiffs, one assigned to each door and the other to me, my brother and sister. No one spoke. As they entered the courtroom, waited for the trial to begin that day, and watched the questioning, they did it in complete silence. Even at eleven, I recognized the solemnity that pervaded the trial.

Although I didn't understand fully the semantics behind the phrase "open-and-shut case," I soon learned that the trial I was watching exemplified the cliché. The victim's parents were at a meeting that afternoon; the suspect called twice to make sure they were going. The suspect's car was seen entering and leaving the victim's driveway at the exact minute the boy's girlfriend said he got off the phone to answer the door. The victim's blood was splattered over the trunk of the suspect's car and shirt. The suspect's cell phone was traced making calls on the road to Louisiana and on the road home, giving his location within 75 ft every time he picked up the phone. There was no doubt that he was guilty. Broke and in need of money to cover debts, he had abducted his best friend's son to try and extract a ransom. Within hours of abduction he was identified as the prime suspect. The chance of getting money now out of the question, he drove out to the swamps to kill the boy and leave the body.

It wasn't rare that while the questioning plowed forward, I would see my dad looking at the three of us. We were eleven, thirteen, and fifteen. At his instruction, we were frequently removed from the courtroom on days when the subject matter was too graphic for his children. The last of those days was the day my dad sentenced the Uncle to death. It was obvious to everyone that this was a capital punishment case and this calculating murderer wasn't gong to avoid it. But when the sentence was handed down, we were at home. I couldn't understand was so special about hearing my dad say the punishment—it would happen anyway, and not being there wouldn't make me forget it. At the end of the day, he would have ordered the termination of a man's life. Removing us from the courtroom was his way of saying that it wasn't to be discussed, not even amongst the family.

This was my introduction to the capital punishment debate. No numbers about deterrence or the rates of recidivism. No lofty moral arguments that appealed to religion. No constitutional objections and discussion of the eighth amendment. I wasn't ashamed of what my dad had done, however quiet about it I kept, because the truth was, at eleven years old, sitting in the back of a hot, Texas courtroom, I came to the conclusion that some people deserve to die. I have never questioned it since.

On another Friday afternoon four years later, a nineteen year-old freshman at the local community college disappeared from campus. Her body was found 25 days later in the woods of Sam Houston State Park. She was raped and then strangled with one leg of a panty hose. An arrest was made shortly after. By the summer, my dad had another capital murder trial in his court, and once again I wanted to go watch.

The circumstances of my attendance were different from the first trial. My brother had started college and got a job near campus for the summer. My sister went into Houston with my mom every day to work as a clerk in the courthouse downtown. That left me to watch the trial alone. I was in high school by then, and was fairly convinced that even though I was too young for silly modern conventions like a driver's license or a voter registration card, I was grown up. Seeing as how attending a murder trial was much more of a grown up thing to do than swim all day, I was eager to go. But I had ulterior motives, as well.

Of the many ways my dad's election has influenced my life, none have been more pronounced than my avid interest in politics. I was hooked at age six. I used to beg my parents to let me skip school on election days so I could hold signs outside of polling places. I watched CNN when I came home from school. I would spend hours on the internet researching the major political issues so that I could best form my opinion and, more importantly, how to argue it. The trial was due to start a few weeks before my fifteenth birthday, five months before the 2000 election, and I had squared away every major campaign issue except one: the death penalty.

I never doubted that some actions merited the death as a punishment, but there were things about state ordered execution that didn't seem right to me. The state gets things wrong. The state can be prejudiced or racist as long as there are prejudiced and racist people. Not everyone gets a fair trial, not to mention a decent lawyer. And then there was the question of whether the state should have the authority to sentence people to death, if that power should ever be vested in a system, and what happens to that system when it does have it. More and more I found myself against the death penalty, but nothing could make me think that my dad had done the wrong thing. It wasn't because he was my dad; it was because I agreed with what he did. I more than agreed—I was glad that the convicted murderer was going to die.

When the argument came up, I would abstain. I found myself nodding in agreement while anti-death penalty advocates made their case, but I neither chimed in nor defended the practice. I thought watching another trial, this time from my matured perspective, would clarify my opinion.

The girl's abduction and the subsequent search for her body were closely followed by the press as much if not more than the boy's four years earlier. Again, as I walked into the courtroom for the trial the atmosphere was different than any other time I had entered it, but this crowd did not have the somber tones and demure demeanor that I remembered from before. Cameras from all the major news stations were camped outside the entrance to the courtroom. The line to enter and watch the proceedings snaked around the hall. When we were assembled at last and the doors shut, the wait for the familiar "All rise," was pregnant with whispers. Even as the trial began, I felt like I was sitting amongst a well-orchestrated TV audience, who awed in sync to the questioning's revelations and took turns to gossip to their neighbor in appropriate, but brief increments.

Sitting amongst them, I felt uncomfortable. I tried to ignore their presence as the trial proceeded. The girl had met her future abductor at a bar. She gave him her phone number. The next day he went to her school—invited or not, we'll never know—and she left the campus with him, not to be seen again until her body was found. He denied ever seeing her after their first encounter. The other half of the torn pantyhose used to strangle her was found in his trailer, as were fibers from her jacket and hairs from her head. His skin was found under her nails. His cell phone was traced making calls on the road to Sam Houston State Park and returning. He power washed the inside of his truck immediately after.

He was sentenced to death before the summer ended, and this time I didn’t attend because I didn’t want to be part of the crowd. Some people deserve to die, but the spectator aspect of the trial made me sick to my stomach. It reminded me of movies that showed crowds in small villages in the 17th century gathered around to watch a man hang. No matter what turn of events led to one of the men with a noose snug around his neck, you couldn’t help but feel angry at the crowd for treating his death like entertainment.

After the first trial, I hadn’t told people my dad had sentenced someone to death because, however public the decision, it was a private matter for him. My silence was a sign of respect. After the second trial, however, I was embarrassed to admit that I had been part of the audience. There was not a doubt in my mind that my dad had done the right thing on both occasions, but the death penalty as a state policy hadn’t improved for me, either. I added to the litany of arguments against capital punishment that rather than creating harmony by granting justice, it plays into the hands of a base human instinct that delights in watching another man die.

The trial had not helped in clarifying my opinion of the death penalty. There was no sudden realization, no obvious answer. It wasn’t for another two years that I was able to reconcile my thoughts.

The Texas Justice Alliance is a Houston-based group of lawyers that reviews capital punishment cases in hopes of proving the innocence of those wrongly sentenced to death. In 2003, my senior year in high school, the Alliance hosted a fundraising benefit that featured an informal production of *The Exonerated*, an off-Broadway play that narrated the lives of six people wrongly put on death row. Mia Farrow, Aiden Quinn, and Montell Williams were flying down from New York to perform an abridged version of the play in a small auditorium. My mother and I went to go see it.

The actors situated themselves on three stools in the middle of the stage, where they remained the entire play. They stood when the narration was based on their story, but otherwise sat and filled in for the remaining cast, often changing their voices and assuming multiple characters for a single scene.

Their stories were tragic, of lives interrupted by a false conviction. They were victims of poverty and bad luck as much as they were victims of a fractured justice system. Testimonies gained through torture, bad lawyers, corrupt judges—everything that could go bad with the system did go bad for the victims represented in the play. I spent half the performance crying, simply unable to grasp the atrocities the justice system—the same system that my dad was a part of—was capable of committing.

I was simply flattened by the performance.

The story that moved me the most was of Sunny Jacobs. She and her boyfriend Jesse Tafero were convicted of murder in Florida in 1976. They were both exonerated in 1992, two years after Tafero's execution. Although housed in separate prisons, they wrote letters to each other up until Tafero's death. He never gave up hope that they would be freed, she said. Even his last letter, his forced goodbye, was confident that their innocence would win out in the end. When she talked about life after prison, she talked about living it for the both of them, going to places he promised he would take her when they were both free.

The lights went up. The rest of the audience quickly exited, rushing to give the actors their congratulations and the Alliance their money, but my mind was reeling by what I had just seen. How could people support the death penalty? How could I support it? That man was murdered, not by some desperate family friend or a maniacal rapist, but by the state, by our government. My childhood belief in the justice system, which my dad was the principal cornerstone of, collapsed. For the first time in my life, I was ashamed of him. He had presided over the trials, saw that the accused were given an excellent defense, but he was still part of it. I had seen with my own eyes that his trials were fair, but his sentencing supported the practice that now filled me with disgust.

The ride home I said nothing and thought of my dad's behavior after the trials. Why wasn't he more affected by it? How could he perform such a task and not be tormented inside? Didn't he know the gravity of what he had done?

I had visions of what I wanted to remember but had never happened. My dad, returning home from the fateful day, looked wounded by what he had done. He ordered my brother, sister, and I to bed, but he himself couldn't sleep. Sneaking downstairs in the middle of the night, I heard through the shut door to my parents' room muffled sobs. These and countless other occasions in which my dad was visibly destroyed by his own actions floated through my mind, a product of imagination and not memory.

Before we entered the house, I could tell my mother wanted to talk to me. It was no bother; I knew what she was going to say. Don't pick a fight with your dad over this. But I walked in with a bold, rebellious stride and a look of absolute resolve. I was ready for a fight.

My dad and I frequently clashed over politics. We disagreed on almost every major issue, and if even a whisper of one entered the conversation, it would end in a yelling match. Sometimes he did it just to get a rise out of me. A lot of times he did it to make sure I espoused what I believed in and not what some liberal talking head had told me to believe in. He always told people how proud he was to have a pinko liberal commie for a daughter, because the majority of young people were ignorant to things going on in the world around them. Apathy was worse than opposition.

Tonight was not going to be one of our heated discussions about the 14th Amendment and gay rights or intellectual debates about the implication of preemptory action. I was so affected by the stories of the play that I wanted to scream at my dad. Who cares if he was Republican? Who cares if everyone expected it? He could have said no. He could have sentenced them to life without chance of parole until 2070. He didn’t have to order the death penalty.

My dad was in his usual spot in his usual mode, on the couch in front of the TV, watching the Astros lose. I walked straight into the room, but brought the attack to a halt when a voice in my head said something I didn’t want to admit to thinking. You can’t be mad at him, because you know you agreed with him. You sat in the trials. You heard the evidence. They’re guilty. And you know what else? Some people deserve to die. You want to be high and mighty because you saw a play and didn’t like that the system messes up? What kind of false naïveté do you cling to? Every mechanism of justice makes mistakes. You want to be mad at somebody for supporting the death penalty? Be mad at yourself.

My dad was aware that I had furiously walked into the room without saying hello and proceeded to stare at him. I can only imagine what type of hand signals my mother had to use behind me to keep him from snapping at my rudeness. I quickly said hello, gave him a kiss on the cheek, and retreated upstairs to my room on the pretenses of doing homework. I spent most of the night thinking about what had happened.

The justice system in our country is far from flawless. We suffer from corrupt judges, incompetent lawyers, stupid juries, bribes, and coercion. On every level of punishment, from a fine for a Class C Misdemeanor to capital punishment, we have made mistakes and false convictions. Some would say that just as we don't stop giving out fines just because one was made in error, we don't stop using the death penalty for the same reason. This was the question it came down to for me. Should one mistake end a practice? If not one, ten? Twenty? How many people have to wrongly die before we have to change our policy?

Principle would say that one mistake is tantamount to a thousand mistakes if a person's life hangs in the balance. If we can't do it right every time, we can't do it at all. Admitting that the justice system had killed a man but reaffirming the practice of state execution said that collateral damage was tolerable in the drive to rid society of its worst members. This kind of callous conclusion is unacceptable in America and has no place in our justice system. It ruins it.

The other side of this argument started with the assertion that had countless times been proven true in my mind: some people deserve to die. But does that mean we have a moral imperative to kill them? I thought of the iconic examples. Given a trip back in time, would you kill Hitler if you had the chance? What about Stalin, or Idi Amin, or Mobutu Sese Seko? The answer to all of these was a firm "Yes," but however resounding my reply, it didn't answer the question I needed to answer, are you doing wrong letting them live?

Again I found myself flooded with visions of things I had not seen: a boy opening his front door, a girl flirting with a handsome stranger, a woman rereading a stack of letters in her cell. Sitting cross-legged on the floor in my room with my back against the bed, I imagined elaborate stories for each of them. The boy had a good day at school. He never liked school when it was nice outside because he felt like he was wasting the day, but his science teacher took his class on a walk through the woods to point out different types of leaves and plants. Sally in his class screamed when she saw a roach on one of the trees, which made everybody laugh. He was thinking of ways to trap another cockroach to bring to class to scare her again when the doorbell rang. The boy saw with excitement that it was Uncle and he could get his advice on it. He ran to the door.

Each of them had a story.

When my mind stopped its storytelling, I found myself faced with two moral imperatives—the obligation to protect the life of innocents and the duty to take it away from the unworthy, because our justice system has shown itself incapable of doing both. When stripped to their essentials, the choice suddenly seemed so easy to me I actually laughed a little to myself. Save life or kill? Capital punishment, as a functioning policy of our justice system, had to be ended. One wrong death is one too many, because if we did it once, we could do it again, and allowing the death of an innocent person is antithetical to the very idea of justice. Some people needed to be killed, and our government had seen to that. When a guilty man was given his punishment, no great moral travesty had occurred. The problem was with the system as a whole and the mistakes it was capable of.

I returned downstairs to my dad, made a standard sarcastic comment about the Astros losing and curled up next to him on the couch. To this day, I have never talked to him about the trials, the play, or the death penalty, despite the eight years it took me to figure out what to make of it all. Now when the argument comes up, I launch into my views on conflicting moral imperatives, but on principle, never bring up my dad or the two people he has sentenced to death. But now I can say with certainty that it’s not out of embarrassment or shame, but respect for him and his view that it’s a private matter.