

## An already cruel punishment made crueler

by *Marc\_H.\_Morial*

Clarence Edward Hill, an African-America death row inmate convicted of murdering a police officer in Pensacola, Fla., has been dead for nearly 18 months, but his legacy still lives on.

On death row from 1983 until 2006, Hill was originally sentenced to death by electrocution, but that changed to death by lethal injection in 2000, thanks to a new state law. But he wasn't having anything to do with it.

In a sense, Hill became the poster child for death-row inmates against lethal injection, the most popular form of execution in the United States. Used by nearly all states with death penalties, the procedure requires the use of three different chemicals in sequence - 1) an anesthetic to numb the body; 2) a chemical to paralyze muscles and stop breathing; and 3) a chemical to stop the heartbeat. So improper administration of the anesthetic could result in a very painful experience, one you wouldn't wish on your worst enemies.

In a 2006 editorial headlined "Lethal Cruelty," The New York Times concluded that when poorly administered, lethal injection, considered by some to be more humane than the electric chair, "can in fact be particularly barbaric."

Earlier that year - on Jan. 24 - Hill was just minutes away from the other side, strapped down to a gurney and hooked up to intravenous tubes awaiting his fate. He got a last-minute stay, courtesy of the U.S. Supreme Court because his lawyer argued that the chemicals used in Florida's lethal injection procedure violated the Eighth Amendment, which forbids "cruel and unusual punishment." While the nation's high court didn't rule on whether use of the three chemicals was unconstitutional, the justices did agree unanimously that Hill had the right to make a claim against the state's method. In June of 2006, the court kicked the lawsuit back to the lower courts, which unfortunately ruled against Hill, contending that he didn't file his claim early enough. An appeal went all the way back to the Supreme Court, which denied a second stay. On Sept. 20, 2006, Hill was put to death using the method he fought so hard against.

His death however, was not in vain. Since then, much momentum has gathered around efforts to re-examine the humaneness of lethal injection. Earlier this month, the U.S. Supreme Court recently granted a stay of execution to an Alabama prisoner while it determines whether lethal injection violates the Eighth Amendment. The stay comes shortly after the hearing of a case filed in Kentucky on behalf of death row inmates Ralph Baze and Thomas C. Bowling. Their litigation has put a de facto moratorium on executions by lethal injection since the court decided to take the case in September 2007.

"The idea of a 'humane execution' is a contradiction in terms," observed Jamie Fellner, senior counsel for the U.S. Program at Human Rights Watch. "But if states are going to put people to death, they must choose the drugs and methods that carry the least risk of pain and suffering for the condemned."

Because lethal injection appears to be a medical procedure, the method of execution is perceived to be humane. When it is administered properly, it is humane. But when it's not administered properly, it most certainly is not.

The National Urban League has always opposed the death penalty because it tends to disproportionately affect blacks, who are less able to afford adequate representation when they are accused of running afoul with the law. From 1976 to 2007, over one-third of executed death row inmates were black.

In 2006, according to Amnesty International, the United States ranked sixth in the world in terms of execution count - behind China, Pakistan, Iran, Iraq and Sudan. That's very interesting company to keep, especially for a nation that prides itself in being the world's greatest democracy and beacon of freedom. If our nation is going to legalize an act as inhumane as execution, we, at the very least, owe it to the condemned to make it as humane as possible.

Justice Harry Blackmun, once famously proclaimed that "I no longer shall tinker with the machinery of death." The National Urban League agrees, especially if it entails senseless suffering. Let us only hope the majority of justices will take Blackmun's position later this year when a final ruling comes down.

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