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Biden's Death Penalty Inaction Is Unacceptable



Photo by Maria Oswald

Objectively, one of the most glaring impediments to President Biden's reelection for human and civil rights advocates—and activists—is Biden's unacceptable inaction to effectively use the power of his office to advance death penalty abolition.

Two years ago I wrote: “Biden has not commuted the sentence of any, much less every, federal death row prisoner—which many legislators, legal experts, and social justice advocates have urged, and which he can do with a pen-stroke—indefensible inaction that, with each passing day, smacks of pusillanimous political calculation.”

No pundit or political analyst can successfully prevaricate away the fact that the Biden administration continues to pursue the death penalty in federal courts—and against the defendants at Guantanamo Bay.

Elsewhere I've argued Biden's silence on the death penalty speaks volumes, and that his death penalty lie has consequences. Invoking Malcolm X, I've insisted: “Despite my

stolid, lifelong support of the Democratic Party, like Malcolm X, ‘I’m inclined to tell somebody if his glass of water is dirty’—no matter who it belongs to.”

In “Notes of a Native Son,” James Baldwin—whose singular insight about America I’ve argued can help us fight the death penalty—wrote: “Any writer, I suppose, feels that the world into which he was born is nothing less than a conspiracy against the cultivation of his talent—which attitude certainly has a great deal to support it. On the other hand, it is only because the world looks on his talent with such a frightening indifference that the artist is compelled to make his talent important.”

That’s why I have insisted I’ll not tire of writing until capital punishment itself is killed: We must rededicate ourselves to eradicating the vestiges of slavery, including the disproportionate, dehumanizing impact of the death penalty on Black and brown people. We must be open and honest about capital punishment’s grotesquerie. By doing so we’ll have a better chance as an informed electorate to emancipate ourselves from the historical and mental slavery keeping us wedded to such a fiendish, state-sanctioned, lethal, force.

In March, President Biden awarded Bryan Stevenson—prominent death penalty attorney and Executive Director of the Equal Justice Initiative—the National Humanities Medal at the White House. During the ceremony, Biden said: “Bryan does it all—challenges us to get proximity to the suffering and abandoned, and the poor and the condemned, so that as we search for the humanity in others, we find it within ourselves first.

‘Past the midway point of his Presidency, Biden’s death penalty inaction evidences that the President’s quest to find humanity—on the issue of death penalty abolition—has been hijacked by politics, (im)pure and simple.

Because it was Stevenson who long ago insisted: “The death penalty’s roots are clearly linked to the legacy of lynching.” Indeed, the history of the death penalty in America is hewn from the subjugation and the suffering of Black people.

This ignoble history, and Stevenson’s life’s work, demands that President Biden—and all Americans—acknowledge that the death penalty is steeped in the shameful legacy of slavery, and the lingering evil of discrimination. Unacceptable racial bias is at the root of capital punishment; it is an ignominious bloody stain running deep, with terribly tragic results, in the frayed fabric of our country.

Poor people in the United States, disproportionately people of color, receive less justice than anyone else—and not just when they are gunned down or choked to death in the street by police, but when they are methodically strapped down in execution chambers under official color of law.

Baldwin declared “One writes out of one thing only—one’s own experience. Everything depends on how relentlessly one forces from this experience the last drop, sweet or bitter, it can possibly give. This is the only real concern of the artist to recreate out of the disorder of life that order which is art.”

Like Baldwin, “I want to be an honest man and a good writer.” And so when it comes to death penalty abolition, regardless of what man or woman holds the office of President, I will relentlessly continue to use my experience to advance: As a modern, so-called “civilized society,” one that professes to prohibit cruel and unusual punishment—while being a beacon for human rights around the world—we shouldn’t ever, at either the state or federal level, be paying executioners extra to trot out withered, weakened, beaten-down, dying even, old men (and much more rarely, women) to frog-march them to their deaths. We don’t, in the name of “justice,” need to do this, usually many, many, many years after their convictions. And by “this,” I mean exterminating these flesh-and-blood human beings by shooting them in cold blood, gassing them like the Jews were gassed to death by Hitler, or, by pumping their bodies full of electricity or lethal chemical concoctions of dubious efficacy (and even, in some cases, origin).

If Biden wants my vote this time around, he better start acting like he too gets that “this”—and his own inaction on death penalty abolition—is unacceptable, and quickly. Because time is running out.

Stephen Cooper is a former D.C. public defender who worked as an assistant federal public defender in Alabama between 2012 and 2015. He has contributed to numerous magazines and newspapers in the United States and overseas. He writes full-time and lives in Woodland Hills, California.

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