

why the death penalty itself is so discriminatory and ought not be applied. When the people who are called the founders of this country were talking about defining crimes and establishing punishments Patrick Henry among them said, at another time, "Give me liberty or give me death", stated, "Legislators can make any conduct criminal that they choose", but when it comes to the establishment of punishment, there must be a restraint on what the Legislature can do in the way of exercising this kind of power. Too much power tempts toward discrimination and to radical use of that power so the eighth amendment to the Constitution was added, prohibiting cruel and unusual punishment. A punishment was considered unusual and cruel when it was imposed selectively on those people who did not have the clout or the means to be accepted by the society as a whole. They were marked apart and set aside for discrimination. This is the basis for the US Supreme Court ruling in 1972 that the application of the death penalty was discriminatory and violative of the US Constitution. That it was freakishly and wantonly imposed and it had about as much predictability as being struck by lightning. The judges stated, even those four who voted to uphold the death penalty, that the arguments being given in that case were the types that should be given to a Legislature to seek abolition of the death penalty but they could not persuade the court. At least those four members voting in the minority to abolish by judicial fiat the death penalty. Nevertheless, those judges while writing opinions to uphold the death penalty acknowledged that it has no utility, that it can not be shown to serve any worthwhile purpose, that it undermines the criminal justice system. It takes an undue amount of time from the judges because when a person is on trial for his life, the judges will stretch the law. They will interpret the facts in such a way as to give that convicted and condemned person a chance to live. Because, they stated in that case also that dealing with criminal cases day after day they see the differences that result because some people have money and can hire a capable attorney. They felt that in a case where death was imposed the difference between living and dying should not be based on the amount of money you have to hire a lawyer who would know when to object whereas another might not. When life hangs on such a slender thread in a criminal justice system, then that whole system is flawed and has been said by others the symbol for justice in America ought to be a roulette wheel or a pair of dice, certainly not scales of justice. This society when it gives out punishment follows that of ancient India, where the Brahman Caste were immune from death as a punishment but the lower your caste the worse became the punishment, the more severe and America is in