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Race and the Death Penalty

PHIL 101

Self, World, & God

Lecture Twenty

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Jeff's Suggested Reading of the Constitutionality of Capital Punishment

t₀. The death penalty must be imposed fairly, and with reasonable consistency, or not at all.

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McCleskey v. Kemp

- The crime
- New Georgia homicide statute
- Jury
- Conviction
- Appeal
- Makeup of the Court -- 1987

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The Baldus Study

Race Killer/Victim	Death Sentence	Percentage
Black/White	50 of 223	22%
White/White	58 of 748	8%
Black/Black	18 of 1443	1%
White/Black	2 of 60	3%
Total by Victim		
White	108 of 981	11%
Black	20 of 1503	1%

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Evidence that Capital Punishment is Unconstitutional

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- e₁. When controlled for over two hundred non-racial variables such as the defendant's record and the severity of the crime, the Baldus study concluded that murderers of white victims were 4.3 times as likely to receive the death penalty.
- e₂. District attorneys ask for a capital sentence in seventy percent of the cases involving a black defendant and a white victim. When the victim is black and the defendant is white, however, a mere nineteen percent are even prosecuted as capital cases.

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What Explains the Correlation?

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- t₀. The race of the murder victim causally influences the decision whether to seek the death penalty.
- t₁. The decision to seek the death penalty causes the race of the victim.
- t₂. It's just a coincidence that victims' race "correlated" with capital sentences in Georgia.
- t₃. Some unidentified non-racial factor is responsible for the correlation of victim race and death sentences.

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Ruling in *McCleskey v. Kemp*

- 5-4 decision
- Justice Powell's opinion
- Equal Protection ruling
- Particularized discrimination
- Slippery-slope
- Implications for other sorts of discrimination

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