Book Review— Mercy on Trial: What It Means to Stop an Execution

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Mercy on Trial: What It Means to Stop an Execution

By Austin Sarat, Princeton University Press, Princeton, N.J. 352 pages, $29.95

The execution of Crips co-founder Stanley Touke Williams at a time when support for the death penalty in America is gradually on the decline is a statistic of 80 percent in the early 1990s. But the decline in capital cases is a rarity. Rare still are grants of capital mercy—like the one sought by Williams’ advocates—grounded in mercy and compassion.

Sparing a person’s life may be the ultimate act of mercy, but when they have done so, they have explained their actions in terms of redressing procedural and substantive failures. Governor Mark Warner’s commutation of a death sentence recently is a case in point. Citing the improper destruction of DNA evidence, he said this was an “extraordinary” case where “the normal and other problems of our judicial system [did not] provide adequate relief.” In other words, the problem lies with the mechanics of our killing process, not with our system’s effectiveness.

Why is mercy rhetoric so conspicuous among such fundamentally merciful acts? Should mercy play a role in capital cases? In doing so, he takes a frank look at how victim-centered rhetoric and retributive goals have displaced more compelling models of justice in our society, and makes a passionate defense of mercy-based action.

The story of Governor Ryan’s mass commutation provides a compelling example of this approach. A self-described “Republican pragmatic from Kankakee,” a staunch supporter of the death penalty throughout his long career in Illinois politics, Governor Ryan was an unlikely candidate to become a world-renowned hero of the anti-death penalty movement. As governor, however, his views on the death penalty underwent a radical transformation. Spurred by several exonerations of inmates on death row during his tenure, as well as mounting evidence of a capital prosecution system saddled with unfairness, Governor Ryan first declared a moratorium on executions in 2000, and then three years later, made the grand gesture of vetoing Illinois’ death row in one fell stroke.

Sparing the lives of murderers without regard to the severity of individual mitigation, his decision—made in the face of Governor Warner’s recent commutation on the eve of his departure from office—inevitably provoked a firestorm of protest and anger.

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