Retribution is the accepted justification for the death penalty.

**Justice Center 10** writes[[1]](#footnote-1)

**Death penalty advocates justify capital punishment under the principle of** lex talionis, or **"an eye for an eye"** -- the belief that punishment should fit the crime. In particular, **people who favor capital punishment argue that murderers should be executed in retribution for their crimes and that such retribution serves justice** for murder victims and their survivors. Death penalty opponents emphasize the sacredness of life, arguing that killing is always wrong whether by individual or by the state, and that justice is best served through reconciliation.

Valuing rehab entails removing the death penalty. It is literally the most retributive and the least rehabilitative policy. Death is the most severe punishment and precludes all possibility of rehabilitation. This is the most extreme case; if you value rehab over retrib anywhere, you have to value it here.

Also, it’s normal means. Europe proves. They’ve moved to a rehabilitative system, and they also got rid of the death penalty for being too punitive. Europe is the empirical example of what happens when you adopt rehabilitation.

The death penalty is key to strengthening America’s nuclear deterrence. **Yin 03**[[2]](#footnote-2)

A more internally consistent position that the French and British might take is that their threat to retaliate against any massive strike is just a "bluff" and that if it came down to it, they would not launch their nuclear weapons in acts of sheer retribution. Therefore, they might argue that they are morally superior to the United States because for the United States, capital punishment is not a "bluff." [n163](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n163)

Of course, they could never justify the seeming inconsistency between nuclear deterrence and the deontological position on the death penalty by admitting publicly that they would never launch in retaliation. **The last thing that a nuclear power engaged in** the game of nuclear **deterrence wants to do is to give its** nuclear **adversary a reason to doubt its credibility.** One commentator, in opining that MAD violates international law due to the targeting of civilians, admitted that a nuclear power openly agreeing with such a view might negatively impact its own nuclear credibility. [n164](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n164)

Still, the French and British might rationalize the inconsistency to themselves by resting on the "bluff" theory. This seems like a very slender reed upon which to support a weighty point. One commentator rejects the "bluff" theory of nuclear deterrence on the ground that it would not be possible to maintain such a bluff in an open society, and **once a nuclear adversary**  [\*137]  **learned that the** nuclear **deterrent** threat **was** just **a bluff, the threat would cease to be credible.** Thus, he concludes that "this approach will not salvage our deterrence practices."

Other scholars who have devoted considerable attention to studying nuclear deterrence have also rejected the "bluff" theory. Although acknowledging that there is no way to confirm or refute the "bluff" theory, John Finnis argues that it is "highly implausible," [n167](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n167) as it would require far too many people over different administrations to conspire indefinitely to keep the secret. [n168](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n168) Given human nature, he finds it incredible that the strategy would have succeeded. [n169](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n169) Moreover, if the bluff were confined to some inner circle of highly placed government officials, then the persons lower in the chain of command would themselves have to have the conditional intent to launch the nuclear weapons if ordered. [n170](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n170) Finnis argues that "those who deliberately bring others to will what is evil make themselves guilty, not only of the evil the others will, but also of leading them to become persons of evil will." [n171](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n171)

A final problem with the "bluff" theory is that it assumes an absolute, unified chain of command, such that the decision of whether to retaliate always rests entirely with one leader or the inner circle.[n172](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n172) This is not an accurate description of reality. In the United States, for example, the SIOP allows military commanders to launch nuclear weapons on their own initiative if they conclude that the chain of command has been decapitated by a crippling strike; thus, "destruction or silencing of the [National Command Authority] blows away the safety-catch" and could override the hypothesized bluff. [n173](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n173) Without such a similar provision--allowing military commanders to launch without the authorization of a political leader in certain circumstances--the French or British bluff would not be credible. Thus, even if the French or British leaders were bluffing, the very fact of establishing a credible threat requires the establishing of a process where the decision of whether to launch/retaliate could be taken away from the leaders  [\*138]  and reposed in the hands of military commanders who presumably are not let in on the bluff. [n174](http://www.lexisnexis.com.shs-13.scarsdaleschools.k12.ny.us:2048/us/lnlib/frame.do?reloadEntirePage=true&rand=1356624545271&returnToKey=20_T16358133240&parent=docview&target=results_DocumentContent&tokenKey=rsh-20.803829.7387565245" \l "n174)

As an aside, notice that the United States' bloodlust for **the death penalty may** have the curious side effect of **bolster**ing **the credibility of** the threat of **American nuclear deterrence. Given that the death penalty has not been demonstrated to** have a **deter**rent effect**,** it obviously **has no** meaningful **rehabilitative potential, and** it **costs more** to implement **than life imprisonment,**  what emerges is that **Americans are willing to pay a premium to exact retribution.** If that is so, then **a**ny **nuclear adversary** of the United States **must take into account the retributive character of Americans in deciding whether American nuclear deterrence is just a "bluff."**

Credible nuclear deterrence solves extinction. **Schneider 08**[[3]](#footnote-3)

Today, the United States, the world's only superpower with global responsibilities, is the only nuclear weapons state that is seriously debating (admittedly largely inside the beltway) about whether the United States should retain a nuclear deterrent. By contrast, the British Labour Government has decided to retain and modernize its nuclear deterrent. In every other nuclear weapons state—Russia, China, France, India, Pakistan, and allegedly Israel—there is general acceptance of the need for a nuclear deterrent and its modernization. Amazingly, the United States is the only nuclear-armed nation that is not modernizing its nuclear deterrent. Distinguished former leaders such a George P. Shultz, William J. Perry, Henry A. Kissinger, and Sam Nunn, despite the manifest failure of arms control to constrain the weapons of mass destruction (WMD) threat, call for “A world free of Nuclear Weapons” because “… the United States can address almost all of its military objectives by non-nuclear means.”1 This view ignores the monumental verification problems involved and the military implication of different types of WMD—chemical and biological (CBW) attack, including the advanced agents now available to potential enemies of the United States and our allies. **A U.S. nuclear deterrent is necessary to address** existing threats to **the very survival of the U.S., its allies, and its armed forces if they are subject to an attack using WMD**. As former Secretary of Defense Harold Brown and former Deputy Secretary of Defense John Deutch wrote in The Wall Street Journal, “However, the goal, even the aspirational goal, of eliminating all nuclear weapons is counterproductive. It will not advance substantive progress on nonproliferation; and it risks compromising the value that nuclear weapons continue to contribute, through deterrence, to U.S. security and international stability.”2 Why can't the United States deter WMD (nuclear, chemical, biological) attack with conventional weapons? The short answer is that **conventional weapons can't deter a WMD attack because of their minuscule destructiveness** compared with WMD, which are thousands to millions of times as lethal as conventional weapons. **Existing WMD can kill** millions to **hundreds of millions** of people **in an hour, and** there are national **leaders** who **would use them** against us **if all they had to fear was a conventional response**. The threat of nuclear electromagnetic pulse (EMP) attack, as assessed by a Congressional Commission in 2004, is so severe that one or at most a handful of EMP attacks could demolish industrial civilization in the United States.3 The view that conventional weapons can replace nuclear weapons in deterrence or warfighting against a state using WMD is not technically supportable. Precision-guided conventional weapons are fine substitutes for non-precision weapons, but they do not remotely possess the lethality of WMD warheads. Moreover, their effectiveness in some cases can be seriously degraded by counter-measures and they clearly are not effective against most hard and deeply buried facilities that are associated with WMD threats and national leadership protection. If deterrence of WMD attack fails, conventional weapons are unlikely to terminate adversary WMD attacks upon us and our allies or to deter escalation. **Are there** actual **existing threats to the survival of the** **U**nited **S**tates? The answer is **unquestionably “yes.” Both Russia and China have the nuclear potential to destroy the U**nited **S**tates (and our allies) **and are modernizing their forces** with the objective of targeting the United States.4 China is also increasing the number of its nuclear weapons.5 Russia is moving away from democracy, and China remains a Communist dictatorship. A number of **hostile dictatorships—North Korea, Iran, and possibly Syria—have or are developing** longer-range **missiles, as well as chemical, biological, and nuclear weapons**.6 They already have the ability to launch devastating WMD attacks against our allies and our forward deployed forces, and in time may acquire capabilities against the United States. Iran will probably have nuclear weapons within approximately 2 to 5 years.7 The United States already faces a chemical and biological weapons threat despite arms control prohibitions. Due to arms control, we do not have an in-kind deterrent. Both Iranian and Syria acquisition of nuclear weapons could be affected by sales from North Korea, which have been reported in the press.8

1. Justice Center (University of Alaska Anchorage). “The Death Penalty: Specific Issues”. 2 June 2010.

   <http://justice.uaa.alaska.edu/death/issues.html> [↑](#footnote-ref-1)
2. Tung Yin [Associate Professor, University of Iowa College of Law; J.D., 1995, University of California, Berkeley (Boalt Hall); M.J., 1992, University of California, Berkeley; B.S., 1988, California Institute of Technology]. Disposable Deontology: The Death Penalty and Nuclear Deterrence. Alabama Law Review. Lexus Nexis. 2003 [↑](#footnote-ref-2)
3. Mark Schneider, Senior Analyst with the National Institute for Public Policy, Ph.D in history at the University of Southern California and JD from George Washington University, former senior officer in the DoD in positions relating to arms control and nuclear weapons policy. “The Future of the U.S. Nuclear Deterrent,” Comparative Strategy 27.4, July 2008, ebsco [↑](#footnote-ref-3)