Death penalty is dead wrong: It's time to outlaw capital punishment in America
BY MARIO M. CUOMO  SPECIAL TO THE DAILY NEWS Sunday, October 2, 2011, 4:00 AM

In 2008, 46 people were sent to the execution chamber in the United States. I have studied the death penalty for more than half my lifetime. I have debated it hundreds of times. I have heard all the arguments, analyzed all the evidence I could find, measured public opinion when it was opposed to the practice, when it was indifferent, and when it was passionately in favor. Always I have concluded the death penalty is wrong because it lowers us all; it is a surrender to the worst that is in us; it uses a power - the official power to kill by execution - that has never elevated a society, never brought back a life, never inspired anything but hate.

And it has killed many innocent people.

This is a serious moral problem for every U.S. governor who presides over executions - whether in Georgia, Texas or even, theoretically, New York. All states should do as the bold few have done and officially outlaw this form of punishment.

For 12 years as governor, I prevented the death penalty from becoming law in New York by my vetoes. But for all that time, there was a disconcertingly strong preference for the death penalty in the general public.

New York returned to the death penalty shortly after I was defeated by a Republican candidate; the state's highest court has effectively prevented the law from being applied - but New York continues to have the law on its books with no signs of a movement to remove it.

That law is a stain on our conscience. The 46 executions in the United States in 2008 were, I believe, an abomination.

People have a right to demand a civilized level of law and peace. They have a right to expect it, and when at times it appears to them that a murder has been particularly egregious, it is not surprising that the public anger is great and demands some psychic satisfaction.

I understand that. I have felt the anger myself, more than once. Like too many other citizens, I know what it is to be violated and even to have one's closest family violated through despicable criminal behavior. Even today, I tremble at the thought of how I might react to a killer who took the life of someone in my own family. I know that I might not be able to suppress my anger or put down a desire for revenge, but I also know this society should strive for something better than what it feels at its weakest moments.

There is absolutely no good reason to believe that using death as a punishment today is any better an answer now than it was in the past - when New York State had it, used it, regretted it and discarded it.

Experts throughout the nation have come out strongly against the death penalty after hundreds of years of lawyers' cumulative experiences and studies revealed that the death penalty is ineffective as a deterrent.
Some of history’s most notorious murders occurred in the face of existing death penalty statutes.

Psychiatrists will tell you there is reason to believe that some madmen - for example, Ted Bundy - may even be tempted to murder because of a perverse desire to challenge the ultimate penalty.

It is also unfairly applied.

Notwithstanding the executions of mass killers like Timothy McVeigh, capital punishment appears to threaten white drug dealers, white rapists and white killers less frequently than those of other races. Of the last 18 people in New York State to be executed (ending in 1963), 13 were black and one was Hispanic. That racial makeup seems an extraordinary improbability for a system operating with any kind of objectivity and consistency.

Because death penalty proponents have no other way to defend this policy, they cling unabashedly to the blunt simplicity of the ancient impulse that has always spurred the call for death: the desire for revenge. That was the bottom line of many debates on the floor of the state Senate and Assembly, to which I listened with great care during my tenure as governor. It came down to "an eye for an eye, tooth for a tooth."

If we adopted this maxim, where would it end? "You kill my son; I kill yours." "You rape my daughter; I rape yours." "You mutilate my body; I mutilate yours." And we would pursue this course, despite the lack of any reason to believe it will protect us even if it is clear that occasionally the victim of our official barbarism will be innocent.

It is believed that at least 23 people were wrongfully executed in the United States during the twentieth century. Twenty-three innocent people killed by the official workings of the state, but it is not called murder.

According to the Innocence Project, 17 people have been proven innocent - exonerated by DNA testing - after serving time on Death Row. These people were convicted in 11 different states. They served a combined 209 years in prison. And government was prepared to end their lives.

Tragically, New York holds the record for the greatest number of innocents put to death over the years. According to some, New York leads all states with at least six (perhaps more) wrongful executions since 1905.

Yet proponents of the death penalty continue to assume that the criminal justice system will not make a mistake, or they simply don't care. As was shown by the recent Troy Davis execution in Georgia, where shaky witness testimony and a lack of physical evidence were considered insufficient to create "reasonable doubt," too many people seem unconcerned about the overly ambitious prosecutor, the sloppy detective, the incompetent defense counsel, the witness with an ax to grind, the judge who keeps courthouse conviction box scores.

But these imperfections - as well as the horrible and irreversible injustice they can produce - are inevitable. In this country, a defendant is convicted on proof beyond a reasonable doubt - not proof that can be known with absolute certainty. There's no such thing as absolute certainty in our law.
We need to continue to do the things that will control crime by making the apprehension and punishment of criminals more effective and more precise. We need adequate police and prisons and alternatives to incarceration. We should also have a tough, effective punishment for deliberate murder. There is a punishment that is much better than the death penalty: one that juries will not be reluctant to impose; one that is so menacing to a potential killer, that it could actually deter; one that does not require us to be infallible so as to avoid taking an innocent life; and one that does not require us to stoop to the level of the killers.

There is a penalty that is - for those who insist on measuring this question in terms of financial cost - millions of dollars less expensive than the death penalty: true life imprisonment, with no possibility of parole under any circumstances.

True life imprisonment is a more effective deterrent than capital punishment. To most inmates, the thought of living a whole lifetime behind bars only to die in a cell, is worse than the quick, final termination of the electric chair or lethal injection.

I've heard this sentiment personally at least three times in my life. The second time it came from a man on the way to his execution in Oklahoma. He was serving a life sentence for murder in New York at the same time that Oklahoma was eager to take him from New York so they could execute him for a murder he had committed in Oklahoma. I refused to release him so that he could be executed in Oklahoma, but then the governor who replaced me in 1995 was able to get New York to adopt the death penalty - and to prove New York really approved of death as a punishment, he released the inmate from prison and sent him to Oklahoma, where he was promptly executed.

On the night before he died, he left a note that was published in the New York Post that said, "Tell Governor Cuomo I would rather be executed than to serve life behind bars."

Because the death penalty was so popular during the time I served as governor, I was often asked why I spoke out so forcefully against it although the voters very much favored it. I tried to explain that I pushed this issue into the center of public dialogue because I believed the stakes went far beyond the death penalty itself. Capital punishment raises important questions about how, as a society, we view human beings. I believed as governor, and I still believe, that the practice and support for capital punishment is corrosive; that it is bad for a democratic citizenry and that it had to be objected to and so I did then, and I do now and will continue to for as long as it and I exist, because I believe we should be better than what we are in our weakest moments.

Cuomo was governor of New York.