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The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

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KATZ, J., with whom NORCOTT, J., joins, dissenting. Adhering to my view that the death penalty is, in all circumstances, cruel and unusual punishment prohibited by the constitution, I reaffirm my position that our ''society should not have the authority to sustain an institution the nature of which is to destroy its own members. If our status as moral creatures is to survive, the termination of our ability to accomplish a deliberate institutionalized method of execution heads my list of desiderata for this society.'' *State* v. *Webb*, 252 Conn. 128, 150, 750 A.2d 448 (*Katz*, *J.*, dissenting), cert. denied, 531 U.S. 835, 121 S. Ct. 93, 148 L. Ed. 2d 53 (2000).

As I have stated before, the issue ''is not whether the defendant . . . has the right to life, but whether we as a society have the right to kill.'' Id. Certainly the defendant who has committed such hideous atrocities did not have that right. His acts of violence, however, do not justify state sanctioned murder. The ''justice'' we impose is no less shocking than the crime itself, and, far from treating the defendant's offense, instead sullies us. As Justice Brennan of the United States Supreme Court summarized in a dissent: ''The fatal constitutional infirmity in the punishment of death is that it treats members of the human race as nonhumans, as objects to be toyed with and discarded. [It is] thus inconsistent with the fundamental premise of the [cruel and unusual punishments] [c]lause that even the vilest criminal remains a human being possessed of common human dignity. . . . As such it is a penalty that subjects the individual to a fate forbidden by the principle of civilized treatment guaranteed by the [clause].'' (Citation omitted; internal quotation marks omitted.) *Gregg* v. *Georgia*, 428 U.S. 153, 230, 96 S. Ct. 2909, 49 L. Ed. 2d 859 (1976).

I also agree with former Justice Berdon and Justice Norcott, both of whom, in separate dissenting opinions, have expressed their opposition to the death penalty because it allows for arbitrariness and racial discrimination in the determination of who shall live or die at the hands of the state. See *State* v. *Cobb*, 251 Conn. 285, 530–36, 545–48, 743 A.2d 1 (1999), cert. denied, 531 U.S. 841, 121 S. Ct. 106, 148 L. Ed. 2d 64 (2000). In the years following the United States Supreme Court's decision in *Furman* v. *Georgia*, 408 U.S. 238, 92 S. Ct. 2726, 33 L. Ed. 2d 346 (1972), serious efforts were made to comply with its mandate, and legislatures and appellate courts struggled to provide judges and juries with sensible and objective guidelines for determining life and death. We have attempted to define who is ''deserving'' of the death penalty through the use of carefully chosen adjectives, reserving the death penalty for the ''worst

of the worst.'' But the *Furman* promise of consistency and the requirement of individualized sentencing; see *Lockett* v. *Ohio*, 438 U.S. 586, 605, 98 S. Ct. 2954, 57 L. Ed. 2d 973 (1978); merely have reduced, rather than eliminated, the number of people subject to arbitrary sentencing. While one might hope that providing the sentencer with as much relevant mitigating evidence as possible will lead to more rational and consistent sentences, experience has taught us otherwise. Indeed, the decision whether a human being should live or die is so inherently subjective that it unavoidably defies the rationality and consistency required by the constitution.

Furthermore, even under the most sophisticated death penalty statutes, race continues to play a major role. We have not eliminated the biases and prejudices that infect society generally; therefore, it should not be surprising that such problems continue to influence the determination of who is sentenced to death, even within the narrower pool of death-eligible defendants selected according to so-called objective standards. Finally, even the most sophisticated death penalty schemes are unable to prevent human error from condemning the innocent. Innocent persons *have* been executed. See H. Bedau & M. Radelet, ''Miscarriages of Justice in Potentially Capital Cases,'' 40 Stan. L. Rev. 21, 36 (1987).

Accordingly, I respectfully dissent because to do otherwise would perpetuate yet another killing, sadly this one state sponsored.