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We The People

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“We The People”

On July 20, 2012, twenty-four year old James Holmes entered a movie theater in Aurora, Colorado where a new Batman movie was being shown and began shooting, killing twelve people and injuring fifty-eight (“Deadliest Mass Shootings”). Throughout his career as a doctor who treated mainly gymnasts, Larry Nassar molested hundreds of women and girls for decades. On Valentine’s Day of this year, Nikolas Cruz walked into his former high school in Parkland, Florida, and shot and killed seventeen faculty and students, injuring many more (“Deadliest Mass Shootings”). In the United States today, it almost seems commonplace to hear these stories in the news. Our society has become so violent that once peaceful and safe spaces like movie theaters and schools have become war zones. The sanctity of simple, normal behaviors has come under threat, and many live in fear for their lives every day.

The actions of these individuals, and many more, have created and perpetuated an environment of trepidation that so many Americans experience when they go about their everyday lives. People, myself included, often see or hear these stories of horrific actions and become angry. They want to find the abhorrent person, or persons, that committed these heinous crimes and punish them to the worst degree. Some might say they deserve to be murdered also and are satisfied when the individual either kills himself or is killed by law enforcement. Others believe that suicide or being killed is the cowardly way out of their actions, and that they should

have to face the mess that they have made. However, anger is an emotion that good decisions are never made out of. There must be standards and laws put in place to establish fairness and equality for everyone. Although these individuals, and many others, have committed the most egregious crimes, they still, as human beings, deserve a fair trial with access to a defense.

The framers of the Constitution believed that all men had the inalienable rights of life, liberty, and the pursuit of happiness. After the British trampled upon their rights, the framers wanted to guarantee that all men had access to the rights they had been denied for so long. When someone's inalienable rights are at risk, as they are when criminal charges are brought against them, the framers wanted to make sure that any man could have a fair chance at protecting those rights. Because of this, the framers of the Constitution added the Sixth Amendment to the Bill of Rights, a document that helped reinforce the guarantee of the inalienable rights of life, liberty, and the pursuit of happiness. The Sixth Amendment to the Constitution reads:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence. (Bibas and Fisher)

In sum, the Sixth Amendment guarantees every single person accused of a crime the right to a speedy and public trial, an impartial jury of their peers, knowledge of the charges and witnesses against them, the ability to gather witnesses in their favor, and the right to a defense attorney.

These guarantees were not always applied to all criminal prosecutions. For many years, the Bill of Rights was thought to only apply to the federal government, and thus only federal prosecutions, and the Supreme Court ruled as such. However, as with the rest of the Bill of Rights, the Sixth Amendment was slowly incorporated to the states piece by piece through various court cases. The most famous case in regards to the right to counsel for a defense, though, is *Gideon v. Wainwright*. In this case, the Court ruled that the Sixth Amendment guarantees a right to counsel for all felony criminal charges, and incorporated this right to the states. This necessitated that every felony criminal prosecution brought against someone guaranteed them access to a defense attorney if they could not afford one (“*Gideon v. Wainwright*”). In subsequent cases, this right was extended to include every type of criminal prosecution in all fifty states.

Not only is allowing every person facing criminal prosecution a legal obligation, but it is a moral obligation as well. Recently I was watching a television show called *For the People*. It follows young, new lawyers that work in a federal district court, and focuses on the variety of different criminal and civil cases they argue. In this particular episode one of the lawyers, Jay Simmons, has to defend a neo-Nazi white supremacist who is accused of killing a politician at a rally, and he succeeds in getting the man acquitted. Jay is the son of Muslim immigrants, and quickly realizes that he had to defend someone who hates him solely because of the color of his skin. He tells his father of the predicament that he was in, and his father shares a story about a family member who lived in the village that they immigrated from. The relative was a construction manager who refused to approve a project that was supported by a high-level government official. She was kidnapped, beaten, and tortured until she confessed to a crime that

she did not commit, and was subsequently sent to a terrible prison. He tells his son, “You won a trial because you *had* a trial.” This is a perfect example of the tyranny that the framers of the Constitution desired to avoid, and the Supreme Court works to prevent.

As humans, we must give everyone a fair chance not only because it is the moral and right thing to do, but also because there may be superseding factors that may not appear at first glance. As David Eagleman highlights in his essay, “The Brain on Trial,” brain chemistry and physiology can have a lot to do with the horrible actions committed by individuals. He gives the example of Charles Whitman, who shot and killed thirteen people and wounded thirty-two others from the University of Texas Tower in Austin before killing himself (421). In his suicide note, Whitman showed obvious signs of mental illness and asked to have an autopsy done on his brain (422). The state of Texas obliged, and a small tumor was found pressing on his amygdala, a brain structure that is involved in emotion regulation and aggression (423). Eagleman points out that everyone’s brain is different, and the idea that everyone is capable of making the same decisions and behaving in the same way is impossible. He states that so many biological influences play a part in determining one’s behaviors, cognition, and emotions. For instance, Eagleman asserts that if a person carries a particular set of genes, they are four times as likely to be arrested for a violent crime, and subsequently, 98.1 percent of death-row inmates carry these genes (425).

Mental illness also plays a part in the biological susceptibility towards violent crime. According to PBS, 73% of women and 55% of men behind bars suffer from at least one mental illness. The Department of Justice cites that 1 in 6 inmates in state prisons are considered psychotic (Varney). A lot of these mental illnesses are genetic, or people are genetically susceptible to them, but they manifest because of the environment that they grew up in. Because

they grew up in poverty or experienced a traumatic event during their upbringing, these individuals are more likely to develop a mental illness. Often they self-treat these illnesses with drugs, which leads them to commit crimes in order to get more drugs, and the vicious cycle keeps turning. Despite a public belief that inmates are given mental health treatment in prison, they most likely are not, and instead, their conditions are worsened by a stressful prison environment. Upon release, they are no better than when they were incarcerated, and in fact, are in an even worse condition than before (Varney).

Although brain abnormalities, mental illness, and poor childhood environments are superseding factors that may cause individuals to commit heinous crimes, they are certainly not excuses for their actions. These factors simply provide evidence in support of giving every person a fair chance at defending themselves in a court of law. For example, Nikolas Cruz, a teenager that killed many of his former classmates in Florida, was described as aggressive, angry, and moody. He was referred to as “weird” by his classmates. He was an orphan, with both of his adoptive parents dying recently, and had moved in with a family that had graciously taken him in (Wan, et al.). These factors do not justify his actions, but they do give reason to allow him a chance at a defense.

According to the American Bar Association’s Criminal Justice Standards, those involved in defense counsel have a duty to advocate for their client with “courage and devotion and to render effective, quality representation” (Shipman). Defense attorneys are often ridiculed for their role, but they are an essential part of the judicial process and society. Without the guarantees of the Sixth Amendment, our society would be characterized by savagery. The wrongly accused would face punishment they do not deserve, and the wealthy and powerful

would go free for crimes they actually committed. The guarantee of a right to counsel when one is accused of a crime, along with the other guarantees of the Sixth Amendment, is essential to a healthy society and requires protection and support. People like James Holmes, Nikolas Cruz, and Larry Nassar will continue to commit egregious crimes, but it is our duty as Americans and as moral human beings to assure that they will get a fair chance to defend themselves in a court of law.

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