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Could obstacles to lethal injection lead to an end to the death penalty?

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Access to required anesthetic agents for a lethal injection is quickly disappearing, leaving the future of the death penalty in the United States in question.

"Because the European Union opposes the death penalty, it prohibits the export of goods for executions [and] requires a time-consuming preauthorization review for every shipment of a potential 'dual use' pharmaceutical," says Rebecca Dresser, JD, biomedical ethics expert and professor of law and medicine at Washington University in St. Louis.

This blockage makes it particularly difficult for states that use the death penalty to obtain anesthetic agents required in the three-drug protocol for lethal injections. This protocol involves an anesthetic to induce unconsciousness, a paralytic to induce a sustained paralysis of muscles and potassium chloride to stop the heart. Without the anesthetic, the injection would cause extreme and prolonged pain that could violate the Eighth Amendment's probation against cruel and unusual punishment.

Dresser discusses the impact of the limited access to lethal injection drugs in a recent issue of The Hastings Center Report.

"Although the death penalty still has significant support, public support for alternatives to the death penalty is increasing," Dresser writes.

"Capital cases are expensive, and state budgets are tight. High costs and concern about erroneous convictions have led a few states to abolish the

death penalty in recent years. Barriers to obtaining lethal injection drugs could lead more states to do away with the death penalty altogether."

Missouri is a prime example of a state dealing with limited access to lethal injection drugs. The state recently scrapped a plan to execute a murderer using propofol as the anesthetic after receiving significant pressure from drug companies. And the state's Attorney General has proposed restoring the state's gas chamber to bypass the hassles associated with lethal injection.

More information: "Drugs and the Death Penalty." Rebecca Dresser. *Hastings Center Report*, Volume 44, Issue 1, pages 9–10, January-February 2014. DOI: 10.1002/hast.247

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