The 5th amendment to the Constitution of the United States says, "No person shall be... deprived of life, liberty or property without due process of law." Before the state can execute you, you are supposed to have your day in court, to be judged for your crimes (if any) by a jury of your peers. An execution without due process is a murder.

Despite these important protections in our Constitution, murder of innocent Americans is slowly but surely becoming acceptable because of the increasing use of a technique called "risk assessment."

As we saw last week, risk assessment had its origins in the U.S. Food and Drug Administration's (FDA) 1954 decision to abandon the fight to keep pesticidal poisons out of the American food supply. Instead, FDA decided in 1954 to allow (and thus legitimize) certain amounts of poisons in our food. Initially these amounts were called "safe" but as knowledge grew, scientists came to realize that, at least in the case of cancer-causing poisons, someone, somewhere would be harmed if any amount appeared in the nation's food supply. After that realization, "acceptable" amounts were set on the basis of predictions of how many people would be killed. Usually the official goal was to kill no more than one-in-a-million people, though sometimes one-in-a-hundred-thousand is deemed acceptable.

This technique is now called "risk assessment," and today it is so widely practiced that some people consider it the only possible way to think about such matters, which of course isn't true. (Another time we'll discuss alternatives to risk assessment.) Now there are individuals (indeed, whole companies) who do nothing but write "risk assessments" for money; sometimes they work for polluters, sometimes they work for governments, but always they are helping establish how many people will (and, by implication, should) die.

Our government now routinely issues licenses (called permits) that allow people to kill other people by putting poisons into our common air and water supplies, and these licenses are based on risk assessments.

As we noted above, the number one-in-a-million is typically called a "negligible risk" or an "acceptable risk." If you want some dangerous project to be licensed, you hire someone to write a risk assessment "proving" that the risks to the public from your project will not exceed one-in-a-million. This means that the person writing the risk assessment is reasonably sure that your project will actually kill no more than one person out of every million persons affected by the project. (There's a lot of guesswork in such estimates.)

An important point to recognize is that risk assessment does not predict individual risk; risks are not equally distributed. So if a million people live within range of, say, an incinerator smoke stack spewing carcinogens, the one-in-a-million risk will not be evenly distributed among the affected population. Because of wind patterns, topography, location of residences, individual susceptibility, and other individual health conditions, some people are much more likely to be killed than others.

But let's get specific. The National Academy of Sciences calculates that pesticides are responsible for 2.1% of all U.S. cancer deaths each year; there were 461,520 cancer deaths in the U.S. in 1985: 2.1% of this is 9692 deaths. So government decisions to license pesticides over the last few decades have killed roughly 10,000 Americans each year, according to official estimates. Since there are 245 million Americans, we can calculate that pesticides kill (by giving cancer to) 40 out of every million citizens each year. (You see, the one-in-a-million decisions accumulate as each new one-in-a-million risk is added to the environment. A typical risk assessment does not consider these cumulative impacts of many individual decisions.)

Why do we let our government issue licenses to kill 10,000 citizens each year? We let it happen because the victims die anonymously. They are faceless. We don't know exactly who they are.

But what if the names and addresses of the victims were known? If the names of the victims were known, no one would dispute that they were murdered. Why should it matter that contemporary 'negligible risk' victims are known only in number and not by name? We do not excuse the killer who shoots into a large crowd of strangers because he doesn't know his victims' names and he kills only a few people or even just one. Why, then, do we tolerate those who spray the crowd with poisons rather than bullets? Is it not still murder? The corpses lie just as dead." We are quoting Paul Merrell and Carol Van Strum (see our last paragraph, below.)

We allow our regulatory officials to get away with killing large numbers of us because we accept their rhetoric in which they claim not to kill us, but only to impose "risks" on us. And because we accept many risks each day (such as driving our car), they argue we should accept new, chemical risks without complaint. If we accept the substantial risk of driving an automobile, how can we logically object to a tiny (one-in-a-million) added risk from chemical contamination of our food or water?

"A better question is, why should we be so naive? These offenders do not impose 'risks' upon a crowd; they deliberately execute individual human beings in the name of profit," Merrell and Van Strum argue. They actually kill real people by their decisions, not merely impose abstract "risk." And it is important to note that the informed consent of the victims is not obtained.

A few years ago, nationwide fear and outrage erupted when a small number of people died after a few Tylenol bottles were spiked with cyanide.

Courts have declared that it is murder for a wife to kill her husband by lacing his chili with parathion (a pesticide), so how can we excuse those who authorize the poisoning of the entire nation's food supply? Is it sufficient justification for murder that only a few will die? If so, how can we justify poisoning the Tylenol killer or the wife who murders only one husband?

We need to recognize risk assessment (for pesticides and other hazardous chemicals) for what it is: evidence of premeditated murder. It documents the intent of regulators and polluters to sacrifice individual lives on the altar of profit. The person who writes the risk assessment is an accessory to a felony. The concept of "negligible risk" is tolerated only because of the anonymity of its intended victims. If our science improved and we could publish the names and addresses of intended victims in the newspaper, risk assessment would immediately be recognized as murder and would cease, you can be sure.

Without dead bodies, it may be impossible to prosecute decision-makers and those who conduct risk assessments, but it still may be possible to prosecute them for conspiracy to commit murder, and for attempted murder, both of which are felonies. Such prosecutions will succeed when this 'negligible' form of murder ceases to be acceptable to prosecutors and to the public. In the meantime, citizens can speak out, reject risk assessment, and call it what it is: premeditated murder of innocent citizens.

Most of the material for this week's newsletter was taken from Paul Merrell and Carol Van Strum, "Negligible Risk or Premeditated Murder?" JOURNAL OF PESTICIDE REFORM Vol. 10 (Spring, 1990), pgs. 20-22. For years, Carol and Paul have been leading, and supporting, the fight to restrict the use of herbicides and other poisons in the northwestern U.S. Their most recent book is THE POLITICS OF PENTA (Seattle, WA: Greenpeace Penta Campaign [4649 Sunnyside Avenue North, Seattle, WA 98103; (206) 632-4326; 148 pgs., $10], about the U.S. Environmental Protection Agency's failure to regulate pentachlorophenol—and about the hopelessness of "regulation" as a solution to toxics problems; prevention is the only way. They offer many important publications on pesticides and dioxins through Alder-Hill Associates, 7493 East Five Rivers Road, Tidewater, OR 97390; (503) 528-7151. You will...
also want to subscribe to the thoughtful and informative quarterly JOURNAL OF PESTICIDE REFORM, P.O. Box 1393, Eugene, OR 97440; $15 for 4 issues and well worth it. Hats off to Mary O'Brien who has just ended an outstanding six-year tenure as editor of JPR.

--Peter Montague

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Descriptor terms: risk assessment; pesticides; carol van strum; paul merrell; mary o'brien; fda; mortality; health statistics; cancer;