Capital Punishment Opinion Paper

Connie Reyes

Capital Punishment Opinion Paper

Capital punishment, also called death penalty is the punishment of death after conviction from court of law for convicts who have committed very serious crimes. Capital punishment should be differentiated from the unlawful executions carried out without any legal process. The difference between death penalty and capital punishment is that death penalty does not always result in executions. Death penalty can be changed to life time imprisonment (Roger Hood, n.d.). In today’s world, around 70% of the countries have eliminated this practice from their law and justice system. On the other hand, some of the countries still have capital punishment as the most gruesome punishment for severe offenses. These countries are largely populated and generally ruled by a controlling government (Zhuang, 2019).

According to International law, the death penalty is not prohibited, but some countries claim capital punishment as human rights violation. The order of death penalty globally is considered in assessment of U.S. standards of humanity and unusual punishment according to the Eighth Amendment.

**Disagreement over Punishment**

Different countries have dissimilar beliefs over capital punishment. The countries which do not impose capital punishment, are concerned when one of their citizens is being executed in some other country which executes people over severe crimes. These countries avoid sending the individual back to that country if there is risk of death penalty. Moreover, many countries and international organizations have condemned the practice of capital punishment practiced in other countries. Death Penalty Information Center (DPIC) tracks implementation of capital punishment worldwide and according to it, over 160 people have been executed since 1973.

According to the Justice System of the U.S., capital punishment is operational on two levels. Death penalty is carried out by the federal government based on laws passed by Congress. However, the states and territories can make their own policies for punishment. In the past, handful executions were carried out by the state (Masood Farivar, 2019). U.S. Diplomacy has always considered human rights and privileges important, but due to its practice of death penalty it is frequently confronted by other countries.

For a long time, the debate has continued whether capital punishment should be abolished or not. Researches and studies have drawn inconclusive results over this concern. Some believe capital punishment ensures justice, while others consider it as human rights violation.

**Relation to Deterrence**

The findings of Forst as well as Sellin, Passell, Zeisel, Schuessler and others do not approve or disprove the statement that capital punishment deters people from committing murder or such crimes. However, from these studies, it can be perceived that capital punishment does not have noticeable influence on the rate of homicide (Forst, 1983).

The comparison of jurisdiction is not sufficient alone when other factors are also involved in the homicide and murder rate. The other factors that can also impact include higher unemployment rate, involvement, and positive contribution from police departments. A small number of people who commit murder, receive death penalty and due to this, it is hard to assess its impact on society. According to past studies conducted by National Academy of Sciences, the conclusions have neither confirmed or negated the effects of capital punishment.

**Financial Cost as Factor**

Some people consider death penalty as an ethical violation and for some, the policing mechanism is fault. On top of that, for government, it is related to the financial cost and potential gains. It is a common belief among people that the government is able to save money as the person who is executed will not need facilities and financial expenditure in prison. The government will not have to pay for healthcare or other facilities. However, as with the evidence from recent capital punishments, it is revealed that this belief is not genuine.

It has been observed that more cost is spent for the executing a convict than the alternate without-parole imprisonment. After a court announces death penalty, comprehensive trials and multiple appeals are made. This leads to requirement of a greater number of experts and lawyers. These all factors involve expenditure and higher costs. Also, in most of the cases, the announced death penalty does not actually result in execution. Many of the people who get death penalty, after trails and appeals spend rest of the life in prison. As death penalty was involved, the total sum spent becomes a huge amount.

According to many such studies, the conclusion is that the death penalty utilizes a huge cost as compared to life without parole, which is paid by the taxpayers. Many researchers wonder if the benefits of capital punishment are of the same value as its expenses and if other approaches may offer comparable benefits but at a lesser cost. The evaluations conducted by law enforcement experts are majorly related to identifying the effective expenditures in crime reduction.

**Relation to Racism, social class, gender**

Many researchers, policymakers, and practitioners have agreed that there is a need for more exploration for a better understanding of racial discrimination in the criminal justice system.

In February 1990, the United States General Accounting Office stated about Death Penalty Sentencing that in about 82 percent of studies on the race of the vic­tim has revealed the influ­ence on the probability of being accused with mur­der or receiv­ing death penal­ty.

It has been observed that in the U.S. a significantly large number of people who received the death penalty are people of color. As per statistics published by DPIC, in 2016 more black Americans were punished with the death penalty than any other race combined, with more 17 death sentences.

According to the views of Americans, with Trump's US Attorney General Jeff Sessions in office, the chances are very low that the situation of racial discrimination will be improved.

From point of view of social dominance theory, the death penalty and executions are one of the numerous ways, in which institutional disparity can develop. If this approach applies to, it will also result in assisting us in understanding the use of hierarchy-enhancing social policies like the length of prison time and intensity of fine. Testing this parameter is of great significance and also the conclusions can be used to improve other societies (Pratto, Sidanius, & Levin, 2006).

Prejudice towards white victims has is found in nearly all the refined studies over many years. The studies naturally regulate the other variables which include the number of victims or the cruelty of the crime and still revealed that defendants were probably to be sentenced to death if they had killed a white.

**Poverty and Capital Punishment**

           It is observed that poor people are more likely to be executed and poverty has become a risk factor in this regard. The people on death row in many countries like the U.S., China, Pakistan, Malaysia, and Nigeria do not have much in common except for the fact that they are poor.

So many times, the poor people are accused and charged when they don’t even have the means to hire skilled lawyers, gather evidence to prove innocence and defend themselves. For people who cannot afford the lawyers, the government has to arrange lawyers for them. However, many countries lack in providing poor defendants the capable lawyers. This becomes a severe problem when poor people cannot even defend themselves and are wrongly accused. The incapable lawyers do not make much effort to help the poor as they are not highly paid. With a person’s life on the line, the government becomes responsible for the adverse effects. Sometimes, poor people pay for the crime of others in a corrupt system run by payoffs and bribes. In this way, the rich can infiltrate the justice system and the poor have to bear the consequences. With other financial difficulties in life, the poor are not able to bear the expenses for the defense. Thus, the poor become even more vulnerable in such cases. Apart from financial problems, the poor have to face the fear of death.

             The chief of UN Human Rights, Michelle Bachelet has stated that human rights have a direct connection between the SDGs, rule of law, poverty, and the use of the death penalty, which is entirely against the poor people. There are two possible ways through which prejudice and uncertainty in capital punishment can be diminished. One of them is the facility of effective guidance to the poor and the cautious practice of executive powers.

**Strengths of Capital Punishment**

Capital punishment is practiced by many countries that defend the punishment with multiple reasons and facts.

Firstly, the reason behind penalties for criminal violations is that there is a need for a deterrent effect on certain behaviors. It is observed that when People who are thinking a breach of the law or committing a crime when seeing that the outcomes of their activities will be even worse, they tend to quit the crime. While up to 88% of criminologists in the U.S. state that capital punishment is not a highly operative deterrent to murder or manslaughter, but it is also observed that it has the potential to avoid violence to an extent. This makes it a valuable structure in a legislature.

           Secondly, the critical essentials of justice in current societies include punishments for criminal behavior which do not comprise of brutal or infrequent circumstances. In the U.S., capital punishment we implemented through the use of lethal injections. However, some areas struggle to acquire the required drugs to control this result.

           Moreover, in the U.S., more than 2 million people are now in prison. Nearly one out of five people presently in jails are in anticipation of trial for charges or accusations which they face. The number of these people is almost similar to that of people who are considered violent offenders. If there is a mix of people present who wish to transform and those who do not understand the gravity of the crime they had committed, it is difficult to improve the situations of society. But if these people are separated and given a chance to work and rehabilitate, they can lead a better life and also benefit society. The expenses for lifetime care and in case the prisoner causes more damage if released on a certain basis, are higher and can be controlled with strict punishment regulations.

           The appropriate implementation of this punishment provides society a suitable consequence for brutal conduct. At times when the efforts of rehabilitation are not much beneficial and violent conduct is favored for a criminal. Considering capital punishment as a choice in society, an appropriate outcome fits the criminal conduct of the criminal. One of the positive sides is that people who tend to create havoc for the mass when are no longer part of that community, the community is a much safer place. This brings a sense of justice and fear of committing a crime (Sunstein & Vermeule, 2005).

           It also eradicates the sympathetic responses to the crime charged with the brutal crime. The U.S. provides a confrontational system of justice as it is an effective way to confront the evidence and realities of the criminal case. The decisions should always be based on logic instead of sentiment. The regulations and rules should be able to confront the activities of a criminal such that it demotivates other people to commit similar or other crimes. The aim should be facilitating the needs of everyone who suffered from the cruelty of criminals. The criminal might commit a crime thinking that he or she will not be executed and find an escape route through legal ways. However. If capital punishment is implemented, It will eradicate the risk of criminal finding an escape.

The easiest and fastest method to stop a criminal who commits the crime repeatedly without remorse is that their ability to do so is eliminated. Capital punishment removes a person from society who can be harmful to the existence of other innocent people. The death penalty for a convict eradicates any possibility that the convict will commit any more murders in the future. Not only the convict will be removed from society but also the families of the victim will be ensured that no other person will suffer from this.

However, some consider capital punishment as inhumane and violation of human rights. They should also note that the convict was the first one to violate the human right of someone to live and was also aware of the consequences.

**Weaknesses of Capital Punishment**

           Being responsible for the death of another person can leave a personal impact on the executioner. In one such case, Frank Thompson shared his experiences of carrying out executions of inmates while he served as superintendent of Oregon State Penitentiary. According to him, being personally involved in the act led him to question whether he valued life at all. Taking another person’s life was part of his job, and regardless of whether that life is taken legally or through a criminal act, it still manages to leave a considerable impact on the individual carrying it out (Amann, n.d.)

Secondly, the US Supreme Court, in the 1970s, limited the application of capital punishment in states. The ruling aimed to foster a system that minimizes the suffering of inmates sentenced to death. The courts encouraged the state to come up with their procedures and laws to achieve that purpose, essentially limiting the idea of any abrupt application of the death sentence (Bedau & American Civil Liberties Union, 1992).

Decades of studies and research on the death penalty revealed three major defects in the punishment. Among them is unreliability within the system itself using which inmates are sentenced to death in the first place. At times, inmates have had to wait decades before their sentence was carried out. Therefore, the biggest problem is the arbitrary nature of the sentencing, which explains why many countries have abandoned their application.

Furthermore, the death sentence has not been shown to have a positive impact on homicide rates. For instance, in 2014, the US carried out 35 death sentences, however, the same year saw 14,000 murders to have been committed. From the view of the criminal, the idea of being imprisoned for life for killing someone may deter him/her from more than the notion of being killed when they grow old. Conversely, there are statistics to suggest that the abolishment of the death penalty and its replacement by a life-sentence lead to fewer acts of violent crime and assaults. Moreover, the very act of taking a life for life may lead to a situation where life itself is devalued, thus, normalizes the act of killing itself.

Even though it is assumed that justice systems are flawless, but in reality, not always the system can provide justice to everyone. In the last few decades, over 150 people are removed from the death row because later the evidence revealed the wrongful conviction and accused were guiltless of the crime. No innocent should face this consequence, but in reality, it happens more often than documented.

**Conclusion**

For a long time, it has been assumed in the U.S. that capital punishment acts as a deterrent for brutal crimes. With a greater number of executions, the rate of violent crime reduces. On the other hand, many organizations have claimed that executions do not deter crime rather it brutalizes society even more. Through this conduct, the government reduces the respect for human rights and life. In reality, a committee formed by the National Research Council has determined that current researches are unable to draw results in a way or any other. (Daniel S. Nagin & John V. Pepper, 2012). If not amongst the politicians and legislators, then among the researchers and scholars, the recurrent plea to providing evidence of benefits or disadvantages actually should give way to contributing to finding the real proof. (Bedau, 1970). Moral, theoretical and religious principles are central to the current disagreement over capital punishment. Nonetheless, realistic evidence should update the policies implemented before. (Lamperti, n.d.)

As for both cases whether capital punishment should be abolished or not, there is a lack of evidence to prove the case. Thus, it cannot be vaguely decided whether the implementation of capital punishment is justified or not. Legitimate reasoning exists to defend the decision of the government to continue considering capital punishment. There are also some negative outcomes observed in society after capital punishment is removed from the legislation.

Capital punishment is essential to any criminal justice structure, however before implementing it as part of the system, other factors should be kept in mind. Other factors include ensuring that an innocent is not executed, and the poor get the right to defend. Without these key factors, even the justice systems fail to provide justice to the underprivileged

.

References

Amann, D. M. (n.d.). *Capital Punishment: Corporate Criminal Liability for Gross Violations of Human Rights*. *24*, 13.

Bedau, H. A. (1970). Deterrence and the Death Penalty: A Reconsideration. *The Journal of Criminal Law, Criminology, and Police Science*, *61*(4), 539. https://doi.org/10.2307/1142042

Bedau, H. A., & American Civil Liberties Union. (1992). *The case against the death penalty*. New York: American Civil Liberties Union.

Daniel S. Nagin, & John V. Pepper. (2012). Deterrence and the Death Penalty | The National Academies Press. *The National Academies Press*. Retrieved from https://www.nap.edu/catalog/13363/deterrence-and-the-death-penalty

Forst, B. (1983). Capital Punishment and Deterrence: Conflicting Evidence? *The Journal of Criminal Law and Criminology (1973-)*, *74*(3), 927. https://doi.org/10.2307/1143139

Lamperti, J. (n.d.). *Does Capital Punishment Deter Murder?* 10.

Masood Farivar. (2019, July 28). Americans Have Been Torn for Decades Over Use of Capital Punishment. Retrieved November 26, 2019, from Voice of America website: https://www.voanews.com/usa/americans-have-been-torn-decades-over-use-capital-punishment

Pratto, F., Sidanius, J., & Levin, S. (2006). Social Dominance Theory and the Dynamics of Intergroup Relations: Taking Stock and Looking Forward. *European Review of Social Psychology - EUR REV SOC PSYCHOL*, *17*, 271–320. https://doi.org/10.1080/10463280601055772

Roger Hood. (n.d.). Capital punishment | Definition, Debate, & Facts. Retrieved November 26, 2019, from Encyclopedia Britannica website: https://www.britannica.com/topic/capital-punishment

Sunstein, C. R., & Vermeule, A. (2005). Is Capital Punishment Morally Required—Acts, Omissions, and Life-Life Tradeoffs. *Stanford Law Review*, *58*, 703.

Zhuang, Y. (2019, August 2). Which countries still have the death penalty? Retrieved November 26, 2019, from The Sydney Morning Herald website: https://www.smh.com.au/national/which-countries-still-have-the-death-penalty-20190802-p52dbs.html