Death Penalty in the USA

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**Executive Summary**

"Capital Punishment "is an expression that depicts "death penalty," in the legal context of criminal handling. Capital punishment is legal in the United States, where its roots can be traced back to beginning of American colonies. There are different ways of death sentences, such as lethal injection, hanging, electric chair, and gas chamber. The first death sentence was executed in 1608 by a firing squad. During the nineteenth century, three American states abolished capital punishment. However, death penalty continued to be just in the larger states for crimes such as rape, and murder. In the year, 1972, capital punishment was suspended, taking into account a “unitary trial” in which jury was asked to return the verdict of innocence or guilt. In 1976, death penalty was reinstated, about 37 states enacted new death penalty statutes that were meant to address the concerns of Steward and White in Furman. In 1977, the Supreme Court of the United States barred the stance of death penalty for the rape of adult women. The United States is one of those specific countries in which death penalty is still applicable, taking into account that from 1976 to January 2019, about 1490 executions have been made. Death penalty is an everlasting debate, taking into account that many of the people and scholars are against death penalty while others think that it is a way to stop crimes. Many people think that death penalty is a stance that is an insight into “the possibility of mistakes," because judges and juries may commit a mistake that can cast a heavy loss on an innocent soul and his family, while others thinks that mistakes are very rare in accordance with revised laws. Many of the researchers have inferred that death penalty is applied unfairly in the present time while others highlight religion and morals, inferring a stance of social unity void of violence.

**Introduction**

Death penalty is also termed as capital punishment. It is known as the legal execution of a criminal. The etymology of capital punishment can be traced in Latin *Capital* comes from the Latin word, "*head."* In ancient times, capital punishment was carried out by punishing someone with beheading. Although this method has never been practiced in America, in fact, there is another method of capital punishment such as poison gas, shooting, lethal injection, electrocution, and poison gas. Some of the states use any of these methods for punishing.

**Historical Background**

According to historical accounts, legal execution was practiced in America in 1630. In England, death penalty was treated as a legal punishment for many crimes; however, minor crimes such as stealing of bread and picking pockets were also punished with capital punishment. In 1800, about 270 crimes were capital offenses. In a simplified form, they were punished with capital punishment. (Godcharles, et, al. 2019). The roots of capital punishment can be traced back to colonization where English colonists brought some traditional values, along with laws and judicial systems. It would not be wrong to say that Britain played a major role in influencing America’s use of capital punishment. The list of the crimes punishable by death penalty extended with understanding from religious beliefs. Thus, crimes such as adultery, blasphemy, and idolatry along with sodomy and bestiality were punished with capital punishment.

In 1972, the case of Furman V. Georgia declared capital punishment unconstitutional because it was considered as a violation of the eighth amendment against unusual punishment. It asserted that new laws must be formulated in order to address clear standards for death sentence. Although new capital punishment laws were written in 1972, 1976 and 1935, these laws set up a weighting system that could decide when death penalty should be applied. Capital punishment again started in 1977; taking into account that death penalty would be applied equally on the criminals. The reason behind passing “equal capital punishment” was the study conducted by the University of Lowa in which it was inferred that the ratio of black people being punished with capital punishment is seven times more than then white people. (Jones, et, al. 2018). After an exegetical analysis of variable, it was brought into insight that the Blacks had been sentenced to capital punishment four times greater as compared to White. In recent years, about 50 prisoners were executed each year, with 3,000 inmates who were waiting on the death rows in the prisons across America.

**Discussion**

Spinning the wheel of history back to eighteen-century, time paves the way for a lot of questions such as, “reason of capital punishment," "current situation" and “variation in perspectives."

**Deterrence**

Capital punishment as treated as deterrence in the present time. Many arguments have been formulated that can act as a reason to address "deterrent effect." In the eighteenth and nineteenth century, there was a complete organization of the hanging event, taking into account that crowds of people along with children were made to attend the event so as to make people away from crimes. (Kaplan, et, al. 2019).

**Retribution**

Retribution and retaliation are treated as another aspect that can pave the way for "Capital Punishment," taking into account that the examples of adultery and theft were thought to bring closure of the victims and the families of the victims. (Kaplan, et, al. 2019).

**Physical Punishment**

In the present time, as well as, in the past, the sole aim of punishment was to infer, "physical hampering." In past, slaves who could not pay the fines were treated with capital punishment so as to fulfill the stance of punishment and to treat the body as property. Although burning was also an option, it was specified for the people who murdered their slaves. (Kaplan, et, al. 2019).

In a nutshell, the imposition of death penalty has a very long history. A death sentence was imposed by the common law rule that convicted murderers, and the penalty continued to be used in 20 century by many of the American States. The analysis of the constitution reveals that death penalty was also accepted by the farmers. By the ratification of the eighth amendment, capital punishment was treated as a common sanction in every state. (Kaplan, et, al. 2019). In accordance with the decisions, it is assumed that over the next 30 years, Court will have numerous occasions that would refine the jurisprudence to distinguish the underlying legal issues. The constitution of the United States has imposed a variety of limitations in the use of death penalty. There is a history of a number of cases that was explored in the particular procedural aspects. It is also significant to note that in the present time, there are significant aspects that can modify and tilt imposing of death penalty.

**Geographical Factors**

In the United States, the imposition of death penalty is dependent on geographical factors. As every state has its own code of legislation, so there is a different scenario of crime that is punishable by death and capital punishment. It is important to note that the issues of death penalty are not resolved by federal government; in fact, these issues are resolved by the state itself. The disparity of the explanation of “capital punishment” is a fact that has changed the framework of capital punishment in each state. Taking into account that in some of the states, death sentence is imposed automatically while in a number of states, death sentence is applied after a series or a span of imprisonment. (Sethuraju, et, al. 2016). In many of the states, death penalty is incorporated by life imprisonment, sometimes without parole. However, the entire concept of capital punishment in the United States is much complex as compared to other countries because of the multiplicity of jurisdictions and legislation. There are several legislation modes and spectrums in the United States in accordance with states.

**Crimes punished by death**

There are several offenses that are treated and considered as capital crimes, but the implication of death penalty is dependent on the type of crime and the locality (State). In many of the states, first-degree murder is termed as an offense that is punishable by death. Such states include California, North Carolina, Florida, Arizona, Kansas, Oklahoma, Montana, and Louisiana. (Shirley, et, al. 2015). Again, there is a contradiction in the aggravations in each state, where some states have high aggravating factors while others have less aggravating factors. Aggravating factors represent the situation in which a murder is done, such as rape, and robbery. In 1972, the American Law Institute put forth and elaborated “Model Penal Code” with an aim to remove various disparities in the death penalty states. (Wozniak, et, al. 2017). The model distributed the entire code in two parts; the first part infers the criteria of culpability, i.e. Intentional Murder, Foolishness, Negligence and the measure of recognition between victim and criminal. On the other hand, the second part incorporates three categories of homicide, termed as, a homicide that is done in negligence, Murder, and Involuntary homicide.

These illustrations pave the way for a discussion and stance that can create a difference between nondeath penalty states and death penalty states, taking into consideration the stance of offenders and those who admit capital punishment. It is important to note that there are different methods of execution dependent on each state. (Jones, et, al. 2018).

**Methods of execution**

In the present time, there are five methods of execution, currently practiced in the United States. Each method has a story of its own taking into account that each method is an amalgamation of both technological advancement and human inventions. Although lynching has been a significant method of imposing death penalty, eighteen and nineteenth centuries affirm lynching to be specifically used against Black offenders and slaves.

**Hanging**

Hanging is termed as one of the oldest methods of execution. It was popular in medieval times in European countries. With passage of time, a lot of advancement has been made in the process of hanging. (Garrett, et, al. 2017). A mathematical device is used; the size of rope is also reduced in coordination with the height of offender so that he would have his neck broken as soon as the trap is loosened. There is also a change in the attending of execution, only the family members of victim and offenders will attend execution. It is important to note that execution started in private as heed to "more humane instincts."

**Firing Group / Squad**

Firing squad has been used as one of the methods of execution in military times. The process involved a team of five members who will make use of blind bullets. (Yelderman, et, al. 2019). It is significant to note that none of the participant knows who was a real executioner. The firing team was used in three states, Utah, Idaho and Oklahoma. In the present time, lethal injection is used as an alternative.

**Electrocution**

Electric chair is technological progress in industrialization that is being used in capital punishment. In past, the electric chair was treated as a tool of a humane alternative to hanging. The first man to be executed by electric chair was William Kemmler who was executed in 1890. (Garrett, et, al. 2017). In present time, electric chair is used in ten states, Alabama, Kentucky, Virginia, Arkansas, Tennessee, Florida, South Carolina, Nebraska, and Illinois. It is also significant to note that all nine states except Nebraska are using lethal injection as an alternative.

**Gas Chamber**

The gas chamber was thought to be a better option as compared to other capital punishment ways. It was considered better because there were no visible impacts on the criminal. However, it is more painful and longer method. The history of this method can be traced back to World War I where gas was used as a tool of execution. After the criminal is dead, gas is evacuated so that the time of death of criminal can be estimated. (Wozniak, et, al. 2017). Although it is assumed that the gases quickly made the criminal unconscious, it has been inferred that some of the criminals are conscious after a long time the gases starts reacting. Gas chamber method of execution is used in five states, Missouri, Arizona, Wyoming, Maryland, and California. All these states have "lethal injection" as an alternative to gas execution.

**Lethal Injection**

Lethal injection is also a product of technological advancement taking into account that experts have declared it as one of the most humane methods to carry out execution. It is termed as cleanest of all execution methods, side by side, it is termed as one of the easiest and less panic method. Lethal injection is less expensive than electric chair, and it has brought the main focus towards its use. (Sethuraju, et, al. 2016). A comparative analysis has revealed that it is also cleaner and less hurting method than gas chamber. Lethal injection comprises an injection that is given to the offender in either single or double dose. Research has revealed that it is also much panic and pain lies hidden under the passive face of the offenders. The offender who was punished by lethal injection was a Black offender Charles Brooks in 1982 in Texas.

**Concerns about capital punishment**

Historically, there are different concerns that have been formulated in order to adhere to the formulation of death policy. The first and foremost stance refers to "moral argument." The stance of moral argument highlights the fact that every human being should be treated in the essence of “morality” where society has the right to defend itself against any violence, crime and the victims of the crime. According to this perspective, there is a negation of death policy, taking into account that morality does not allow to kill someone who has killed someone else. Another stance that addresses death penalty is "guilt or innocence" (Ye, et, al. 2018). According to this stance, innocent individuals are the ones who are executed for the sake of justice, and there is no real basis for the execution of the real criminal. Many of the case studies have been studies and incorporated into research that shows that usually, the case of execution is heed to ethical and racial discriminations where either someone is dragged into a case or an innocent being itself become a part of the situation due to a continuous threat. The last but not least of most common interpretations to address death penalty refers to "procedural fairness," taking into account that this spectrum questions the fairness of judiciary. (Yelderman, et, al. 2019). The major stance to address is, there have been intense difficulties to provide with a lawyer that can address a case with required attention. However, this school of thought also highlights that jury comprises of human beings and the most pertinent entities to errors are human beings so a single error of human understanding can threaten the life of an innocent being. It would not be wrong to say that these schools of thought provide a solid ground to the negation of death penalty.

**Conclusion**

Death penalty or capital punishment is a controversial issue with diverse spectrums. An analysis of various aspects of death penalty highlight that the shift in questioning the policy of death penalty is more into pragmatics rather than morality. Many of the Americans believe that the state-sanctioned system of killing is a blakey system that is not flexible. Several other consequences have been incorporated in questioning death penalty highlighting that there could be thousands of reasons of crime and it is not justified to bring an end to human life just with an apparent analysis of the situation. (Garrett, et, al. 2017). Although there are historical lineages, still, there is no justification of an emotional outburst, mental retardation and the stance of enforced crime. It is inferred that there is no logical understanding of “eye for an eye” when methods of exaction are introduced to show and introduce a "humane pattern of execution." Sociologist criticizes death penalty by stressing that an inhumane act “death penalty” cannot be brought and accomplished under” humane essence” by introducing more or less panic and hurting methods. (Ye, et, al. 2018). The side of the policy infers that there should be a stance of justice in society and it can only be achieved by threating the most precious thing which is “human life." In a nutshell, there is a controversy between the understandings of policy highlighting that there is no ground baseline of which justification in favor or against capital punishment can be inferred. An overall analysis reveals that policy of capital punishment is a tool that is used to keep social practices in place by creating realms that justifies that any step to abolish these boundaries will lead to a threat towards life.

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