

Free the death
penalty is not a cruel
and unusual
punishment that is
forbidden by...

[Law](#), [Death Penalty](#)



Death as a punishment is not only unusually severe in its pain, finality and enormity, but it also serves no penal purpose that is more effective than would a punishment that was less severe. The punishment's fatal constitutional infirmity treats the human race fraternity as being non-human, or as objects that can be toyed and discarded, hence it is inconsistent with the fundamental premise of Clause which states that even the vilest criminal possesses human dignity. The punishment subjects individual to a forbidden fate by principle of the civilized treatment that is guaranteed by the clause and on that ground alone, today death penalty is a rather cruel and unusual punishment thus it violates the Amendment. Death penalty is an ultimate denial of basic human rights and is killing that is premeditated and cold blooded carried out by state as a way of delivering justice. It highly violates right to life as proclaimed by Human Rights' Universal Declaration.

It is a punishment that is ultimately inhuman, cruel and degrading. There has been recent surfacing of concerns regarding the lethal injection drug, pavilion that is capable of paralyzing inmates to a point of not being able to communicate any pain due to the potassium chloride dose and such painful and lengthy executions constitutes a violation of the eighth Amendment that prohibits the cruel and unusual punishment. To the mentally retarded criminals, death is not the suitable punishment and through construing and application of the Amendment in the light of evolving decency standards the punishment is excessive and a substantive restriction is placed on the power of the state in taking life of an offender that is mentally retarded. There is also a clause in the Amendment that forbids the imposition of death penalty offenders that during the time of committing the offence were below 18

years old and once there is recognition of diminishing capability of juveniles. There is evidence that none of the two death penalty's phenological justifications-deterrence and retribution of prospective offenders' capital crimes provides enough justification for imposition of death penalty on juveniles. In itself, death sentence imposes a sentence that is irrevocable and nothing can be done once an inmate is executed if at all there was a mistake in the judgment.

Death penalty have not proven to be a deterrence of future murder crimes and those that believe the opposite have a burden of having to prove that it is a deterrent. From years, the overwhelming conclusion of deterrent studies has been that death penalty at best is not more deterrent than life sentence. Some criminologists have in fact maintained that death penalty possesses the opposite effects; society gets brutalized by the sentence hence leading to an increase in likelihood of more murder. The supporter of death penalty also places little or no weight for continued use of deterrence as being a serious justification. Most of the people that commit murder do not either weigh difference between life in prison and possible execution or they do not expect that they will be caught.

There is frequency of committing murders in either moment of anger or passion or by criminals that acted impulsively or are substance abusers. In most cases murder was possibly committed under severe alcohol or drug abuse and there has been no conclusive prove of death penalty acting as better deterrent compared to life imprisonment. Survey of former and present presidents of top academic criminology societies' countries found that there was rejection by 84% of experts on the notion that the research

had a demonstration that death penalty had any deterrent effect. Those serving life sentences in prison often settle on routines and seem to be less of threat in committing violence than those awaiting execution of the death penalty. Moreover, there is life sentence by many States without parole; prisoners under this sentence never get released thus the society's safety is assured without use of death penalty.

There has been considerable evidence of numerous mistakes in sentencing innocent people to death. At least 88 people have since 1973 been released from the death row following evidence of their innocence. During similar period, there has been execution of over 650 people, thus one person in every seven people executed was never to be convicted of the punishment. The statistics represent a risk that is interpretable on execution of innocent people. If similar failures were operated by an automobile manufacturer, it would definitely run out of business. Our system of Capital punishment is unreliable. A study that was recently done by the Columbian University Law School realized that there were serious errors in about two thirds of all the capital trials and when such cases were retried more than 80% of defendants did not face death sentence while 7% were acquitted completely. Most of the innocent defendants' releases came about due to factors that were outside justice system.

Death penalty in practice does not single out worst offenders, instead there is selection of an arbitrary group based on irrational factors like the defense counsel quality, county where the crime was committed or even the race of the victim or defendant. Not all the defendants facing death penalty are able to afford own attorney and are hence left to depend on the lawyers that the

State has assigned to them, many of who don't have experience in capital cases or fail to properly investigate the case properly due to being underpaid. As a result a defendant that is poorly represented is likely to get convicted and get a death sentence. Death sentence with respect to race has repeatedly been shown by studies to be more executed where the victim is a white than where the victim of the crime is black. This makes death sentence to be divisive as it considers white lives more valuable than the black.

Since reinstatement of death penalty in 1976, there has been execution of 158 blacks due to murder of white victims and only 11 executions have been carried on white defendants over murder of black victims. Such disparities in race have been in existence over death penalty history and seem to be largely intractable. It becomes arbitrary to have someone in one state or county receiving death penalty while someone in a different county or state who commits a comparable crime gets a life sentence. There is enormous discretion by prosecutors on when to settle for plea bargain and when to seek for death penalty. Until there is elimination of race as well as other arbitrary factors such as geography and economics as determinants of who dies and who lives, death penalty must not be used.

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