

Death penalty: is it a necessary evil essay example

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



\n[[toc title="Table of Contents"](#)]\n

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1. [Introduction](#) \n \t
2. [Death Penalty is Deterrent](#) \n \t
3. [Countering arguments](#) \n \t
4. [Conclusion](#) \n \t
5. [References](#) \n

\n[/toc]\n \n

Introduction

Death penalty debate has been around for quite long. Arguments for and against have provided platforms for justifying decisions taken. Adherents for death penalty have had their various reasons for supporting their positions. Efforts to determine public opinion on death penalty has been based on opinion polls. There has been little or scanty research methodologies on death penalty which has limited substantial research on capital punishment. After the Furman vs Georgia case in 1972 in which justice Marshall ruled against death penalty citing violation of U. S constitution's 8th amendment (Cruel & Punishment clause). Based on justice Marshall's judgment, the citizens would condemn death penalty en masse therefore the capital punishment was immoral (Bohm, 1990). This case set the precedence for death penalty debate. Marshall's hypothesis focused on examining ways in which education changed individuals' death penalty attitudes and changed public's comprehension of public perceptions towards capital punishment. Death penalty research lacks the capacity to capture variation and in-depth

evaluation and insight into death penalty issues (Falcon & Freiburger, 2011). This paper posits that death penalty is more destructive than life imprisonment and should therefore be eliminated. It is therefore not a necessary evil. It propagates for restorative justice as opposed to retributive justice.

Death Penalty is Deterrent

Justifications for death penalty have argued that capital punishment prevents future murders. By executing offenders, the punishment discourages potential offenders within the society. The act creates fear in the would be offender thus, by reflecting death in their mind first before taking an action , the consequences that would befall them changes their behavior. In his analysis, Isaac Ehrlich notes that every inmate that was not executed lived because others whose lives were taken deterred them from committing murders. Ernst van Den Haag has studied jurisprudence closely and he concludes that capital punishment was likely to prevent more of other actions by criminals because most people fear death meted out in law and programmed by courts (Ernest van den, 1986). He argues that based on this fear inherent in would-be offenders fear is likely to dissuade criminals. Another view is that just in the same way imprisonment puts out of action criminals from robbing in the streets so does death images do to a likely criminal. The mere thought of imprisonment deters them while enforcing punishments makes death threats real to would be criminals. The question still lingers whether indeed death penalty stops offenders (Warden, 2009).

Countering arguments

In a rebuttal, some scholars have attributed contrary views to death penalty.

When a cost benefit analysis is conducted it shows that death is losing support because of its huge social and monetary costs. In countries where death penalty is practiced, criminal statistics were higher compared to those without death penalty (Bedau, 1997). Murder rate was six times more in the U. S than Britain and five times more than Australia. Scholars argue that death penalty appeal cases are five times more costly than life

imprisonment. Some have argued that the choice for capital punishment is equated to a choice not to provide for public goods such as roads, schools, parks, emergency services, public transportation and public works.

Furthermore, the system has been blamed for condemning innocent victims for murder whose executions were forestalled by evidence that was not available during the trial that would have prevented innocent lives. By 1976, about 82 inmates had been freed from executions. During the same period, only one death row inmates were convicted out of every seven. Furthermore, discrimination and unfairness based on race are evident in the justice system. Death penalty is retributive (vengeful) (Pojman, 1998).

Statistics show that out of 305 defendants sentenced to capital punishment in Illinois after Furman, only three of them were whites found guilty of killing blacks for very heinous crimes. The level of seriousness of the heinous crimes that sent a white convict to death was extremely high in heinousness. When compared to blacks, who killed Caucasian the crime need not be extremely heinous. Studies show that defendants suffer some form of discrimination in the capital punishment system. The U. S general accounting

office (1990) argues that a pattern of evidence showed that racial discrimination was prevalent in charging, sentencing and enforcement of death penalty. More still, Texas and Oklahoma states, top the list of states that have had highest number of executions in the U. S nationally yet they have murder rates higher than national average. It leads us to question whether indeed the capital punishment is deterrent. Some scholars have also asserted that life imprisonment guaranteed no future crime. Some religions forbade death penalty based on their teachings and moral values like the Catholics, Presbyterian and Quakers who believe killing is wrong. It also violates international human rights 'right to life'. When inequality is applied, the rationale for intended justice becomes counter-productive to the community or societal morals and values. Justice among blacks has been wanting in the American society.

Another aspect is that deterrence is based on the theory that killing deters some killing. Scholars assume that that hyper-rational tool of mathematics were able to measure the irrational brain of a murderer. Killers are characterized by impulses, self centeredness, a history of violent homes and influence of drugs. By killing them, we are condemning victims. What should be addressed are the conditions leading them to commit murders. In essence, by addressing the root causes of the problem we establish deterrence. In restorative justice, the offender and the offended are considered. By hot-sitting, the offender and the offended in their reverse roles assist in transforming and restoring relationships. When this happens, killers realize how the victims felt and they ask for forgiveness. The mechanism worked in societies that underwent genocide and have resulted

in reduced murder crimes. The value for life is cherished more by all victims and offenders. The mechanism instills responsibility within the offenders making the justice system more deterrent.

This paper adopts the view that death penalty is too hasty and therefore could execute innocent lives. The capital penalty should therefore be scrapped from the justice system. This argument is supported by the following experience:

In the matter of Kirk Bloodsworth who was a former marine champion and was sentenced to death in Maryland 1985 for rape and murder of a nine year old girl. The sentencing was attributed to five witnesses who claimed to seen him shortly with the victim before she vanished. Upon consideration, the court of appeal of Maryland annulled the conviction and remanded the case for a retrial because the prosecution had withheld more evidence during trial.

After two years (1987), Bloodsworth was convicted in and sentenced to life imprisonment. This time his conviction was validated. The lawyer filed a motion to preserve the physical evidence even when the defendant had been convicted earlier and no biological material had been noticed. The defendant's lawyer arranged for evidence to be sent Edward T. Blake who pioneered a forensic application of a DNA replication technique he identified as polymerase chain reaction (PCR). Surprisingly, Blake found a tiny. From the foregoing case, one can easily notice that initial investigations were incomplete or incompetently done. The defendant had already suffered life imprisonment. The truth took two years to surface and exonerates him. This is a case in point where we have had to suffer or even lose lives for

inaccuracies within the system. The level of inconsistencies and error are too high and therefore fail to justify capital punishment (Warden, 2009).

In a similar case in New Mexico, a bunch of motorcycle criminals murdered a young homosexual male whose body was found in a pool of blood riddled with bullets and mutilated in Arroyo East of Albuquerque in 1974. A police officer working on the murder case outlined that the crime had been committed by a travelling band of homosexuals. In a period of two weeks after the crime, members of the L. A a motorcycle gang was apprehended in Oklahoma City. While testifying in court, a part-time maid at an Albuquerque motel regularly visited by homosexuals said she had seen the gang actually cutting off the penis of the victim. Evidence presented demonstrated that tracking of gasoline purchase tracked the gang from L. A to Oklahoma City, but not to the murder scene on Albuquerque. The maid's story evolved during a series of police interviews. At the trial, she admitted of having lied to have spotted the gang (Warden, 2009).

The jury handling the case had actually believed the maid's story rather than the credit card evidence and convicted the gang of motorists sentencing them to a death penalty. Fifteen months passed by and the motorcycle gang were off the hook when the actual killer surfaced in church in South Carolina and confessed to have committed the crime and described the murder weapon and had a gun stolen from the father of his girlfriend. The ballistics team found that the murder weapon described by the self confessed killer was the same weapon that killed the victim. The motel woman who had witnessed in the case confessed having fabricated her testimony following coercion from the police. She had not seen the bikers and upon this

revelation, the case was dropped. The two cases in point prove that investigation and court processes demonstrate that death sentence is riddled with numerous errors and should be eliminated (Warden, 2009).

Conclusion

This paper concludes that capital punishment is losing ground and the trend in the justice system is moving away from retributive to justice system.

Research work on death penalties remains scanty with information.

Strongest justifications for death penalty dwell onto the deterrence as the main rationale for capital punishment. The costs of the capital measures are too counter-productive to the government and the entire society. This paper therefore advocates for elimination of capital punishment and adoption of restorative measures. Life imprisonment is more productive as it stops the offenders from offending behaviors and reduces costs incurred during appeals.

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