

Research paper on research contemporary arguments for and against capital punishment...

[Law](#), [Capital Punishment](#)



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

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1. [Arguments for death penalty:](#) \n \t
2. [Arguments against death penalty:](#) \n \t
3. [Sources:](#) \n

\n[/toc]\n \n

Write a paper discussing the relationship between these arguments and at least two or more of the arguments presented in your text:

Death sentence is simply, a lawful killing inflicted upon the criminals/convicts. The capital punishment, in the form of death penalty, is an age-old phenomenon and has been in vogue in America since 1608. Prescription of death sentence is evidenced in the Bible for the crimes like murder, kidnapping, witchcrafting and other heinous acts. Incidentally, the death penalty exists in military and federal crimes of spying, espionage etc. Principally death as a capital punishment is awarded to murder and cases of rape, in the past two centuries, with about 16000 executions taking place since the year 1608. A survey of death penalty cases in the USA, as of March, 2013, reports that in the 33 states the capital punishment of death still prevails. In the remaining 17 states as also the District of Columbia, there is no statute of death penalty. The state of Maryland was the latest inclusion in the group of states that abolished death penalty.

Between the beginning of 1977 and the end of 2012, there were 1320 executions. These executions were mostly in the form of hanging until 1900.

In the USA, dispensing lethal injection is universal either as the sole means

or in the form of option in the states that still practice death penalty as a capital punishment. Other forms of execution, besides the usual death-by hanging, such as electrocution, shooting-to-death, gas chamber, are alternatives still available legally in some of the states in the USA; but they are seldom used. The convicts had elected one of the methods in such instances.

In December, 2012, in India there was a ghastly incident of a gang rape in southern part of the capital- New Delhi. A 23 year old paramedic-intern was brutally gang raped in a bus, by six young men, including the bus driver, when she was travelling with a male friend. This incident had a rippling effect throughout the country. The trial court found them guilty and sentenced four of them to death while giving a 3-year imprisonment to one juvenile convict in September, 2013. Another convict died committing suicide in police custody. The case is referred to High Court on appeal and is pending on date. The Government has since promulgated an ordinance in February, 2013 which provides for death penalty in such rape cases; a law also known as Nirbhaya Law, named after the victim.

In the Kingdom of Saudi Arabia (KSA) the capital punishment law is quite typical. Islam being the state religion, system of criminal justice is based upon Sharia Law. In KSA capital punishment of death is in the form of ' Beheading' with a sword. Various offences like murder, adultery, rape, repeated drug use, false prophecy, sorcery and witchcraft; attract the death penalty. Between 2007 & 2010 about 345 executions are reportedly carried out publicly. The KSA has many other forms for the implementation of capital punishment. Women convicts are stoned to death instead of beheading.

Strangely, but rightly so, the implementation of death sentence will be done at the instance of the victim's family members' option of either claiming bloody money as a compensation or death to the perpetrator.

The question, here, arises whether death penalty is acceptable ethically and morally? The answer seems yes and no. A majority of the citizens/residents may favor the death penalty to be awarded and executed in the case of murder; because of the anguish of the survivors of the victim, expressed in all severity and the support they get from the society. To quote an example, the states do kill some people, even if there were no statute of death penalty; by way of shoot-outs for violation of law under the guise of self-defense and encounters. During recent surveys, the public in general between 65-70% of them were typically in favor of the capital punishment of death for murder, in particular. For, they feel that the criminals did not deserve a place in the society after committing such heinous crimes of homicides and genocides. While the others opined that whatever the crime committed, the death penalty is not appropriate they being fellow-humans. There is a school of thought who asserts that every single person is to die sooner or later and he would know this in advance and suffer both physically and emotionally. For example, the psyche of a patient diagnosed with terminal illness-cancer is akin to that of one who is given death penalty. The irony here is the cancer patient has no complaints against the doctor; whereas the criminal of first degree murder is unhappy with the jury. Yet both of them suffer the mental agony of having to die prematurely.

David L. Pike and Ana M. Acosta, in their classic book " Literature: A World of Writing Stories, Poems, Plays and Essays", embedded the story relating to a

hapless countryman who attempts to seek justice before the law. The popular works “ Before the Law” by Franz Kafka and “ Kafka’s Parable before the Law” by Herbert Deinert depict the untold miseries of the countryman and Joseph K in the process of seeking justice.

Before the law: In this story, the author enumerates the endless suffering of a countryman standing before the door of law seeking justice. Between him and the door stands a doorkeeper who perpetually prevents him from passing through the door of the law, despite relentless efforts by the countryman, pleading and appeasing the doorkeeper, for entry. On the contrary the doorkeeper frightens the countryman of the difficulties he has to face with the lined-up doorkeepers; even if he were to let him in, in the first place. But he pretends a soft corner for the countryman, to the extent of offering him a stool to sit on beside the door, in waiting. Exasperated, the countryman, at the cost of all his possessions, bribes the doorkeeper who accepts with a remark that he is taking it to only to satisfy the countryman’s emotions; but nevertheless has to wait for his turn to get in. Having waited for a longtime, the debilitated countryman lost all hopes of going through the door of law, let alone getting justice. He makes bold to ask the doorkeeper “ everyone strives to reach the law” but how is it that in all these past years not a single person did beg for admittance, except him? To which the doorkeeper confesses that the particular gate was made only for the countryman and that he is going to shut it. The story indicates that the denial of entry inside the door of law and the consequential delay and denial of justice to the countryman was in itself a capital punishment-Death.

Kafka’s Parable before the Law: Franz Kafka’s Parable “ before the law” and

its contextual chapter " In the Cathedral" have been recognized for long on the focal point of the " The Trial", his unfinished novel, published after his death. Central theme being frustration and confusion, Joseph K makes vain attempts to meet his adversaries face to face from the day of his arrest to the day of his execution. K is ordered for arrest by persons not known to him before. He was informed of the legal procedures initiated against him but the cause for the arrest nor was the identity of the accusers revealed to him. Waiting indefinitely in the cathedral which was empty, he was confronted by a priest who engaged him in discussions that were of no use anyone. The priest continuously counter-argues with K and narrates the parable " before the law" to prove his point that it is futile to fight something that cannot be changed and that the door is destined for the very man who is barred from using it; as the adage goes " no matter how you turn, your butt will always be in back".

A close examination of the following arguments for and against the death penalty-the capital punishment, will be of immense value to those who are in confusion whether it is ' Right' or ' Wrong' and judge for themselves.

Arguments for death penalty:

Incapacitation of the criminal: The hardcore criminals, especially, committing murders are weeded out of the society so they cannot harm others any more. They are also sometimes, as inmates in prison, a threat to the lives of the jail staff and co-prisoners if they are let alone with just a life sentence.

Given death penalty, they cannot indulge in any further crimes be it within or outside the prison on escaping from prison, if at all. The statistics speak loud

that a majority of the murderers, the inmates of prison, that were either released or escaped from the prison; did repeat their old acts of crime, by habit and basic instincts.

Cost: The most intriguing factor, in the capital punishment, is the prohibitive cost involved in the implementation of the punishment. Many advocates of death penalty express deep concern over the tax-payers' dollar being spent on the rapists, murderers and criminals, deserving death sentence; but are sentenced for life-term, instead. By executing the criminals, this money can well be utilized for the old and the sick and the youth and for other productive purposes. However the economics of such cases speaks that in the USA, sentencing a hardcore criminal with life-term works out cheaper, usually, than it costs for the execution of the criminal, though. In a death penalty, the average time consumed is well over 12 years, necessitated by endless appeals at different legal forums. The estimated cost resulting in executions of criminals works out close to 4 million.

Retribution: Execution by death penalty in itself is an appropriate measure as compared to some form of sentence which is rehabilitative in nature; because the punishment of death is commensurate with the crime committed. Retribution by death penalty has been quite a comforting feeling for the families of the murder victims; especially those witnessing the execution in the states where the statute provides capital punishment. The victim's kin could see the logical end result of their appeals coming through. The adage " eye for an eye" though sounding old fashioned, its spirit is still carried in the capital punishment method followed by majority, about less than 1. 5% of the population of around 306 million; account for indulgence in

homicide and murders. The death penalty, as a capital punishment is, therefore is an insignificant percentage in the process of causing justice to the families of murder and rape victims, erring on the positive side.

Deterrence: In most of the individual states, capital punishment is used only as a punishment but not as a deterrent. A very small part of the criminals-murderers, get the death penalty. In the year 2010, there were only 114 capital punishments awarded in the USA. A much less portion of these eventually was executed; while some portion got its sentence reduced on appeal and some others died of natural causes. Texas had a share of 37.6% of the executions since 1977. These as compared to capital punishments and murders, is small, in almost all the states excepting Texas, Virginia, Delaware and Oklahoma. Barring the states of Oklahoma, Florida and Texas; about 51% of the population which is responsible for 12% of the murders is virtually exempted from execution, this number being female group of the society. Between 1984 and 2010, the execution of women accounted for just twelve. The rise in executions in 1990s was the only factor in the reduction of brutal killings or murders. Through the use of zero tolerance policies, the police force of the New York claims success in reduction of crime rate. Many death sentences were saved on account of improved medical techniques.

The capital punishment's deterrent effect has been studied by recent academic outfits in the USA. According to a recent survey, some death row prisoners in many states have actually been thoughtful of the consequences, while most did not want to be involved in the crime, in the first place. Over the years, there has been very less incidence of executions, although the murderers/criminals were caught, convicted and eventually sentenced to

death. For instance, in Kentucky of the 34 people on death penalty, only three executions took place since 1977; the last one of Marco Alan Chapman in November, 2008 was consensual. Louisville city had over 80 murders in 2008 and it was quite unlikely that these resulted in capital punishment; much less in executions.

Arguments against death penalty:

Cost: The state's budgetary provisions are to be borne in mind for the policy-makers in dealing with the capital punishment cases. As compared to the prohibitive cost of about 4 million for the execution of one criminal, choosing to award a life-term, instead, is more economical for the state. In that it spends about less than a million on the life-term prisoners at an average cost of \$30-35, 000 per year, besides the cost of appeals, escalating health care due to aging inmates. Indeed, primarily due to the high cost affecting the budgetary deficits, the states like New Hampshire, Maryland, Colorado, Kansas and Montana; have abolished the capital punishment. California alone was required to expend around \$137 million in 2009 on the death penalties.

Innumerable arguments that are incontrovertible are present against the capital punishment. The advocates of anti-death penalty profess that there is an element of virtual certainty, that innocent people will be executed due to miscarriage of justice. Over the past 30 years, about 139 'innocent' convicts have been released out of the clutches of death rows, nationwide, and this number needs a cautious approach. Interestingly, the incidence of genuine innocence is much rarer than the anti-death penalty lobby and the Television

dramas would lead us to believe. Based on the circumstantial evidence alone, some states are willing to prosecute; which is a matter of grave concern. Sometimes, the murder convict actually killed the victim but refutes the charges of being 1st degree murder. It purely depends on the efficiency and skill of the attorneys of the prosecutors and the defense to establish the degree of the murder. It is quite possible that people convicted of murder of 1st degree but which actually should have been one that of 2nd degree. The appeals take a long time enough to be heard by which time the witness's memory dims down gradually. While the attorneys of both the parties are disturbed and preoccupied with unresolved cases, the lobbyists interfere in the death sentence, trying to woo the judges for sympathetic disposal and stay on the sentence being executed. Some of the state governor's decisions can be arbitrary as is the case with the governor of Illinois, George Rayon, who without regard for the crimes actually committed; had commuted the sentences of the inmates, about 190 of them in January, 2003. Although there is an accusation that racism is practiced in the death penalty administration, the statistics prove that the white prisoners, upon conviction, are more likely to attract death penalty for 1st degree murder and are less likely to have their sentence commuted as compared to black defendants. The numbers of 2009 racial mix of the prisoners was: Whites: 1453; Latino: 384; Black: 1351; Asian: 41; American Indians: 38. The anti-death punishment groups cite as 'racist', going by the disparity between the ratios of blacks in the population. Compared to the White Americans, the African Americans are six times more vulnerable to be the victims of homicide and seven times more likely to be the perpetrators.

The homicide convictions cannot have quota system and the police are expected to act in the situation that they are in, at that time, irrespective of the ethnic background of the perpetrator. One could believe that racism was present in the implementation of death penalty in yester years, where a black was awarded a death penalty, particularly for killing or raping a White lady. But strangely enough, a White person convicted of similar criminal act, perhaps would not attract the same penalty awarded to the Black inmate. In effect, a true racism is where a criminal is dealt with differently, more severely, based solely on the ethnic backdrop.

Every form of implementation of death penalty causes pain to the convict, in one way or the other. In fact, the mental agony, the prisoner is subjected to while being led to the execution place; is more than the physical pain he undergoes at the gallows. The question is how he looks up the fact that he is going to die the next day or hour? There is a stigma attached to the executions that, indeed, they have actually catalyzed higher murder rates in the months following such executions. The death penalty removes the individual's conscious efforts to rehabilitate and relocate himself to a better human being.

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