

Death penalty critical thinking sample

[Law](#), [Criminal Justice](#)



Death Penalty

Before Moses climbed Mount Sinai to receive the Ten Commandments, justice existed. Before 2500 BC when the first ruler of the Babylonian Empire Hammurabi gave his people the first written law, justice existed. Fairness and justice are an inherent human quality. Therefore, swift and fair justice must always exist.

Punishment is the cornerstone of justice in society. A crime should fit the punishment in an ideal society. The death penalty has existed for thousands of years. In the 21st century, emphasis was laid more on the question of humanity. Amnesty International believes " the death penalty is the ultimate denial of human rights. It is the premeditated and cold-blooded killing of a human being by the state in the name of justice. It violates the right to life." This is one of the enduring debates of our time. This paper seeks to justify the death penalty from a purely philosophical standpoint.

Crime and punishment is fundamentally a consequentialist standpoint. It also corresponds to the nature of science itself for every action there is an equal and opposite reaction. All theories of punishment, retribution and non-retributive must deal with the connection between an agent and an act. Kant looked at crime from a compelling standpoint. In " Metaphysics of Morals," he defines the crime as a, " right to punish." (Kant, 1996) Laws are after all, are a social construct. There can be no state without society, and there can be no society without laws. Therefore, there can be no state without laws. For the state and society to exist, the violation of laws must be punished. Punishment is derived from crime. If there is no crime, there will be punishment. (Kronenwetter, 2001)

Kant's Categorical Imperative here would be the permissibility to harm in order to attain the highest amount of good for the largest amount of people.

" The categorical imperative of penal justice, that the killing of any person contrary to the law must be punished with death, remains in force" (Kant, 1996). All human societies have retributive deontological intuitions to deal with violations of social norms and laws. All forms of retribution fall into one category, " An eye for an eye, a tooth for a tooth" (Exodus 21: 23-25) without extending the argument too far let us just assume that a murderer must be murdered. The main question only remains about proportionality to the level of crime. However, there must be proportionality constraint. For it would be a little scary to adopt biblical lextalionis. For every crime, an equal crime must be inflicted upon the perpetrator. This is to say that a rapist must be raped. This would fall into a comical scenario when other crimes are considered. A thief who steals must have his property stolen. If someone indecently exposes himself to the public then the public, must also indecently expose him or her to him?

Lextalionis elucidation of proportionality is out but we cannot throw out the whole argument. Some crimes deserve the ultimate punishment. However, the retributivist argument must be combining with the deterrence aspect of the argument. They are two sides of the same coin. The deterrence aspect must be combining with a Hobbesian social contract of sorts. One's right to life is protected by the collective of the society. The social contract would not be based on historical or empirical fact. It would instead be based on natural law (Online library of Liberty, n. d.). Indeed no matter how capitalistic a society gets defense is a collective responsibility. In order to protect the

individual then the society will be needed. Life is an inalienable right so long as one does not deny another the same right. Once an individual denies another's right to life, he forfeits his life to the society.

Kant's statement above brings the point home. Is life in prison genuinely equal to a man's life? Is the emotional and psychological pain inflicted on the family of his victim justice? In some ways, it is for the death penalty will equalize both families in the same tragedy. This restorative justice eliminates the state as needing restitution and is a focus on the victims. (Beauchamp, 1991)

The only constraint in the death penalty argument is the deontological intuitions that are meant to pass judgment. In order to avoid false guilty sentences everything must be done including numerous appeals in the judicial system. This weakness is systemic and does not affect the philosophical standpoint of a death penalty argument. This just points to the weakness of the system now the argument. (Kronenwetter, 2001)

A situation in which a crime is so heinous that only death would be the right state response e. g. Imagine if the Jews could have passed sentence on Hitler. Would it have been life in prison? When the American capture Osama bin Laden would, they have taken him to trial or killed him on the spot? They killed him on the spot. When the revolution happened in Libya and the people captured Gadhafi, they beat him up then killed him.

According to Kant an " Act only according to that maxim whereby you can, at the same time, will that it should become a universal law." (Kant, 1996) The death penalty is Universal for certain acts. Its proportionality to the crime is exact. " An eye for an eye, a tooth for a tooth" (Exodus 21: 23-25)

References:

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