

Capital and corporal punishment: argumentative essay



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What is meant by capital punishment? Capital punishment, or the death penalty, is the killing of a person by judicial process as a punishment for an offence. Britain has used the death penalty since its early history. Over 200 crimes could be punished by death within the 18th century, these consist of such trivial offences like stealing an item in a shop which was worth more than 5 Shillings, sending threatening letters and even cutting down a tree.

In the 1820's this list of offences which could lead to death penalty was repealed due to a growing humanitarian movement against capital punishment and the views of the public which disagreed with this form of punishment. Also juries became more unable to convict defendants of relatively small offences if the offence meant they had to receive the death penalty as they felt too guilty to take the life of another person. This happened more and more even if all evidence pointed to the defendant of the crime to be guilty

In 1861 parliament passed The offences against the persons act 1861 which established that murder could be the only offence in which a death penalty could be applied to during peace time. The only exception to this rule was if the defendant was to ask the Home Secretary to apply mercy, otherwise this sentence was mandatory to anyone convicted by a jury of murder.

1868 saw the abolishment of hangings being a public spectacle and from then onwards hangings and such kinds of capital punishment would exist only behind the walls of prison grounds. However it is argued by Henry Fielding that although this action was to make the death penalty a more civilised procedure, the sense of horror and fear within the public was

increased as the way in which capital punishment was now administered was now more a secret and private affair.

The start of the 20th century saw the birth of a new political force the Labour Party. The Labour party amongst its members felt negatively towards capital punishment and in January the party published a manifesto on capital punishment.

The abolition of the death penalty was strongly supported and 27 important labour politicians signed this manifesto. However once the Labour party was elected into power they were unable to enact principles in which they had demonstrated and they seemed aspirational. In 1930 a select committee report suggested that a 5 year experimental period should be used to suspend the death penalty however the idea was unachieved.

The House of Commons passed a bill in 1948 which included an amendment to abolish capital punishment. This cause much outrage and shock amongst the public and the House of Lord defeated the idea and the 1948 Criminal Justice Act was passed without the significant section included.

The Royal Commission was set up in 1949 to help appease the publics opinion and help investigate circumstances when a murder might not attract a death penalty. It was stated that a murder which was unpremeditated or murder which was committed by the mentally unstable should remain outside of the administration of the death penalty.

It was only later that diminished responsibility was recognised as a defence to murder. A defendant of murder which could be shown or proved to be

insane as per the legal guidelines of the Mcnaghten rules could however escape execution.

Derek Bentley a man with the mental age of a child was accomplice to a murder and was hanged in 1952 however his co defendant Christopher Craig escaped hanging. A petition for mercy was signed by over 200 MP's as well as much of the general public however Sir David Maxwell Fyfe the home secretary at the time was unconvinced and Bentley was hanged in 1953.

The Gowers Commission of 1953 reported that the reform of the law of murder should include the abolition of capital punishment however the Government paid no attention to this advice.

Ruth Ellis was hanged in 1955 in Holloway prison for the murder of her past lover. It appeared that murder had occurred though the state of passionate jealousy in which she was deeply disturbed by. As a result her case attracted much public attention, debate and publicity and hangings were suspended for two years.

A Labour MP Sydney Silverman organised a national campaign against hanging which created huge debate amongst the media and parliament. In 1956 Britain's most senior hangman Albert Pierpoint resigned as a result of personal conscience. A bill was then again created to abolish hanging however was thrown out by the Lord when passed through the house of commons.

In 1957 the Homicide Act was passed in which introduced three partial defences to murder. These consisted of: provocation, diminished

responsibility and suicide pacts. These three defences offered an alternative verdict of voluntary manslaughter in which a jury could apply if they were persuaded by the defences appropriateness to the case in which they were involved. This then enabled the judge to sentence at his discretion and thus avoid imposing the mandatory death penalty for murder.

There was 87 hangings between 1950 and 1956 however in the following 8 years past 1957 there were only 29, and to this end there has been no noticeable rise in the rates of homicide.

In 1964 a new Labour government was elected and those who were in favour of the abolition were encouraged to renew their beliefs and hopes through campaigns. A private members bill was introduced by Sydney Silverman which gained much support and was passed by the Commons and Lords with approximately two thirds in majority of both houses. After gaining the royal assent the Murder (abolition of the death penalty) Act 1965 was passed. The act included a pacifying clause to its opponents that the act would expire in 5 years unless parliament voted to retain it, however it seemed that the country was now at ease with the act and in 1969 James Callaghan moved a motion through parliament to remove the clause and thus retain the act.

It has been argued for many years whether capital punishment should remain abolished or should be reinstated, here are some arguments for and against capital punishment:

Arguments for capital punishment:

Incapacitation of the criminal:

Capital punishment permanently removes the worst criminals from society and should prove much safer for the rest of us than long term or permanent incarceration. It is self evident that dead criminals cannot commit any further crimes, either within prison or after escaping or after being released from it.

Cost:

Money is not of an infinite supply and the UK could be better off if the government spent our (limited) resources on the old, the young and the sick etc rather than spend our money on the long term imprisonment of murderers, rapists, etc.

Retribution:

Execution is a very real punishment and possibly the worst punishment which can be administered to an individual. Forms of rehabilitative treatment criminals are made to suffer in proportion to offences in which they may have committed seem merely uncomensational. Although whether there is a place in a modern society for the old fashioned principal of an eye for an eye is a matter of personal opinion. Retribution is seen by many as an acceptable reason for the death penalty according to my survey results.

Deterrence:

Does capital punishment deter individuals from committing crime. This is a hard matter to prove because in most countries the number of people

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actually executed per year in comparison to those sentenced to death is usually a very small proportion. However it does seem that in those countries (e. g. Singapore) which almost always carry out death sentences, there is far less serious crime. This leads us to believe that the death penalty does deter criminals from committing crime but only where execution is a virtual certainty. The death penalty is much more likely to be a deterrent when the crime in which a criminal executes requires planning and the potential criminal has time to think about the possible consequences. If the crime is committed in the heat of the moment there is no way that any punishment will act as a deterrent.

Arguments against capital punishment:

The main weakness with capital punishment is that there is no absolute certainty that people have committed the crime which they have been convicted for and genuinely innocent people can be executed to which there is no way of compensating them for a mistake of a sentence like this. Also a person convicted of murder may have actually killed a victim and may even admit having done so but does not agree that the killing was murder and may believe that it was of no fault of their own or an accident, for example a car crash could be seen as a murder. Often the only people who know what really happened are the accused and the deceased. It then comes down to the skill of the prosecution and defence lawyers as to whether there will be a conviction for murder or for manslaughter. Therefore it is probable that people are convicted of murder when they should really have only been convicted of manslaughter. For example the cases of James McNicol and Edith Thompson.

A second weakness is the hell the innocent family and friends of criminals must also go through in the time leading up to and during the execution. It is often very difficult for people to come to terms with the fact that their loved one could be guilty of a serious crime and no doubt even more difficult to come to terms with their death in this form. It is unethical to deny the suffering of the victim's family in a murder case. In America, a prisoner can be on death row for many years awaiting the outcome of numerous appeals, some of which are fatuous and filed at the last minute in order to obtain a stay of execution. This can cause the families and friends of the defendants much unwanted and unneeded stress and pain which is unfairly administered.

Another main weakness against the death penalty is that it needs to be remembered that criminals are real people too who have life and with it the capacity to feel pain, fear and the loss of their loved ones, and all the other emotions that everyone is capable of feeling. It is easy to have the view of an eye for an eye when faced with a 70 year old murdering rapist but harder when considering criminals such as an 18 year old girl convicted of drug trafficking. In Singapore two girls were hung for this crime in 1995 who were both only 18 at the time of their offences and in China an 18 year old girl was shot for the same offence in 1998.

There is no such thing as a humane method of putting a person to death. Every form of execution causes the prisoner suffering, some methods perhaps cause less than others, but there is no doubt that being executed would be a terrifying ordeal for anyone. The mental suffering that the criminal suffers in the time leading up to the execution is also overlooked.

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It can also be argued that the abolition of the death penalty has had an effect on the laws within the UK and the rate of criminality. What are these changes and how has the crime rate been effected?

According to the Home Office Report (Murder 1957-1968) the murder rate in England and Wales steadily increased after the passing of the 1957 Act and further accelerated after suspension (effective abolition) of capital punishment in 1965. The graph below which was produced from that report, shows the rates for murders that would have been classed as capital and non capital under the 1957 Act. It continued to increase and in the 21st century has reached over 900 a year by 2004.

It is clear to see that after the abolishment of the death penalty within the UK the rate of murder crimes after 1957 has steadily rose. The argument here is clear, " does the death penalty reduce crime", although the graph above would suggest so in comparison to countries such as America which still possess capital punishment the rates of crime are not so different. In the United States, homicide rates are higher in states and regions with the death penalty than in those without it.

However the rates for unlawful killings in Britain have more than doubled since abolition of capital punishment in 1964. Home Office figures show around unlawful killings 300 in 1964, which rose to 565 in 1994 and 833 in 2004. The figure for homicides in 2007 was 734. The principal causes of homicide are fights which involve fists and feet, stabbing and cutting by glass or a broken bottle, shooting and strangling. Convictions for the actual crime of murder (as against manslaughter and other unlawful killings) have

also been rising incredibly. Figures released in 2009 show that since 1997, 65 prisoners who were released after serving life were convicted of a further crime. These included two murders, one suspected murder, one attempted murder, three rapes and two instances of grievous bodily harm. The same document also noted that 304 people given life sentences since January 1997 served less than 10 years of them, actually in prison." And " Statistics were kept for the 5 years that capital punishment was suspended in Britain (1965-1969) and these showed a 125% rise in murders that would have attracted a death sentence.

To conclude the abolition of the death penalty has had a huge effect on the rates of crime within the UK, as is clearly shown within the figures above. With no other form of punishment existing that has the same effect the death penalty had on criminals and individuals deterring them away from crime, there is nothing to indicate a reduction in the rates of crime within the UK.

Corporal Punishment:

Corporal punishment is a type of physical punishment that involves the infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming a individual who has committed an offence. It is also used to deter attitudes or behaviour deemed unacceptable. In Medieval Europe, corporal punishment was encouraged by the attitudes of the medieval church towards the human body which was a common means of discipline. This had an influence on the use of corporal punishment in schools, as educational establishments were closely attached to the church during this period. However corporal punishment was not used uncritically, it <https://assignbuster.com/capital-and-corporal-punishment-argumentative-essay/>

has been recorded as early as the eleventh century that Saint Anselm, Archbishop of Canterbury was speaking out against what he saw as the excessive use of corporal punishment in the treatment of children.

Physical punishment has been a common punishment since ancient times. It is believed Jesus was beat before he was crucified. In England from the Middle Ages until the early 19th century whipping was a common punishment for minor crimes. In the 18th century whipping or being physically beat was a common punishment in the British army and navy. However it was abolished in 1881.

In the Middle Ages discipline was extremely severe. Boys were beaten with rods or birch twigs. Discipline in Tudor schools was also savage. The teacher often had a stick with birch twigs attached to it. Boys were hit with the birch twigs on their bare buttocks.

One of the most commonly used forms of corporal punishment was birching. This punishment meant beating a person across the backside with birch twigs. This was once a common punishment in schools and could also be imposed by the courts for minor offences. Birching was banned in Britain in 1948. Other forms of corporal punishment for adults included branding and mutilation.

At the beginning of the 19th century two men Joseph Lancaster and Andrew Bell independently invented a new method of educating the working class. In the Lancaster system the most able pupils were made monitors and they were put in charge of other pupils. The monitors were taught early in the day before the other children arrived. When they did the monitors taught them.

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Under Lancaster's system pupils who did well were rewarded with badges. When they collected enough badges they were rewarded with a toy. However Lancaster also used cruel punishments such as the pillory, suspending pupils in a basket from the ceiling and forcing them to wear a wooden log around the neck.

Punishments in schools were still brutal in the 19th century. As well as beatings less able pupils were humiliated by being forced to wear a dunce's cap.

Until the late 20th century it was quite normal for teachers to beat children. In the 19th century hitting boys and girls with a bamboo cane became popular. In the 20th century the cane was used in both primary and secondary schools.

The ruler was a punishment commonly used in primary schools in the 20th century. The teacher hit the child on the hand with a wooden ruler. Also objects such as shoes or 'the slipper' were often used in secondary schools. Normally it was a trainer or a plimsoll. Teachers used a trainer to hit children on the backside. However when the cane was used it was recorded in a punishment book. When the 'slipper' was used it normally was not, which meant in effect that PE teachers could hit children when they felt like it.

The tawse was a cruel punishment used in Scottish schools. It was a leather strap with two or three tails. It was used in Scotland to hit a child's hand. In the 20th century the leather strap was used in some English schools. Children were either hit across the hands or the backside.

It was not only schools where children were victims of corporal punishment, in the 19th century children were hit at work. In the early 19th century in textile mills children who were lazy were hit with leather straps. Furthermore lazy children sometimes had their heads ducked in a container of water.

However in the late 1960s and early 1970s the cane was phased out in most primary schools. In England in 1987 the cane was banned in state-funded secondary schools. However it was only until 1999 that it was banned in private schools.

Throughout history until very recently parents beat their children. In the 20th century many parents used a wooden spoon to hit children. Other implements used included belts, slippers and hairbrushes. In the late 20th century public opinion turned against corporal punishment and in several countries it has been banned.

It has been argued for many years whether corporal punishment should remain abolished or should be reinstated, here are some arguments for and against corporal punishment:

Arguments for corporal punishment:

Some argue that corporal punishment is a quick and effective method and less cruel than long-term imprisonment. Individuals who possess this viewpoint think that corporal punishment should be re-considered in countries that have banned it as an alternative to imprisonment.

A strength of corporal punishment includes the belief that a quick but painful punishment is more effective and ethical than long term punishments. Many

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people who argue for corporal punishment believe physical wounds heal quickly, while prison and other such long term punishments can affect relationships and job prospects. Also it is believed to have a greater deterrence rate and fewer costs to society.

Some studies show that frequent smacking may be counter-productive however selective or infrequent smacking or spanking has been shown to be positively effective. Many people have the opinion that parents which slap a naughty child, or one whose behaviour is endangering itself, may sometimes be the best immediate course of action under certain circumstances as it prevents the negative behaviour recurring or increasing.

Arguments against corporal punishment:

Many people believe corporal punishment is ineffective. It is believed spanking a child will stop the child from misbehaving for the moment, but studies have shown that the child's compliance will only last for a short time. Also it has been proved corporal punishment actually increases the child's non-compliant behaviour in the future. Psychologist H. Stephen Glenn said " Corporal punishment is the least effective method of discipline. Punishment reinforces a failure identity. It reinforces rebellion, resistance, revenge and resentment. And, what people who spank children will learn is that it teaches more about you than it does about them that the whole goal is to crush the child. It's not dignified, and it's not respectful."

Another main weakness for corporal punishment is that It has been linked to many adult problems. Corporal punishment studies have linked spanking during childhood to higher levels of adult depression, psychiatric problems,

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and addictions. Another study shows that children who were spanked have a lower IQ when compared to children whose parents used other methods of discipline and control.

It is also a well known fact that corporal punishment can escalate to abuse. Because a spanking works for a while, the parent often repeats the spanking whenever the child misbehaves. Corporal punishment may then become a standard response to any misbehaviour. This can lead to increasingly frequent and harsher spanking which can exceed the “reasonable force” threshold and become abuse.

To conclude corporal punishment although effective for a short while has been proven on more than one account to cause more problems than it solves. Also a law which enables a person to hit or hurt another person is completely un-ethical as it goes completely against the human rights which everyone possesses.