

8th amendment

Law



THE CHANGE IN EIGHTH AMENDMENT CRUEL AND UNUSUAL PUNISHMENT STANDARDS IN DEATH PENALTY CASES SINCE FURMAN V. GEORGIA (1972)

Constitutional Law for Criminal Justice

Name

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Abstract

State legislation or congress describes capital punishment for capital crimes such as murder. The Supreme Court ruled that the death penalty should not be a violation of the eighth amendment on unusual and cruel punishment. The Eighth amendment shapes some procedural aspects based on when a court of law can use the death penalty and how it needs to be conducted. The impact of the Due Process Clause of the 14th amendment has made the application of the 8th amendment against the federal government and those of states. The eighth amendment provides that a court of law needs to consider the dynamic life decency standards. Here, courts need to look for factors on how to change the standards of the community and also come up with the independent evaluation if the statutes are reasonable. For instance, in the case of Furman V. Georgia, the jury invalidated the death penalty regulation at that time because they constituted the unusual punishment and cruelty against the eighth amendment.

DEATH PENALTY CASES

The eighth amendment is an American amendment that bars or prevents the government from practices that may result in the violation of the freedom of people (Smith, 2010). It prevents the government from imposing cruel and unusual punishment such as torture and excess bails and fines. This

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amendment was adopted as early as 1791. Death sentence is a practice of the state where people are sentenced to death due to the magnitude of their crime. It is also commonly referred to as capital punishment. Overtime death penalty was not highly considered as a violation of this amendment. There were no vivid cases that had been presented there before to show the brutality of the death sentence and how it imposed cruel and unusual punishment to people. This was until 1972 when a United State Supreme Court decision called the Furman v. Georgia was ruled. The case had to be presented by three black men including Furman who had to be sentenced to death.

In this ruling, the court declared that the death penalty violated the eighth amendment. However, the court did not view the death penalty as a cruel and unusual punishment. The case led to a de facto moratorium on capital punishment. The court argued that the manner in which the death sentences were being imposed was capricious. People were being sentenced to death in an erratic manner. However, this ruling by the court was not taken well by the country. People argued that there are some crimes whose best solution was a death sentence.

In 1976, the court reviewed the case due to statutes presented by the states of Georgia, Texas, and Florida. The statutes provided guidelines on the circumstances that the death penalty could be upheld. They argued that due to the evolving trend in decency death sentence was necessary. The arguments that filled the court were based on the fact that the death penalty is justified morally especially when it is applicable to elements like child murders, multiple homicide, and cop killers. Mass killings like genocide, massacre and also terrorism falls within the same category. Some also <https://assignbuster.com/8th-amendment/>

argued that when the death penalty is not applied to mass killings, it is taken to be unfair. The court ruled out the death penalty for rape cases but ruled that the death penalty does not necessary violate the eighth amendment. Ever since, many judiciaries have reviewed the death penalty and have replaced it with life imprisonment. However, murder cases are still being ruled with the death sentence in many countries. In 1986, the court ruled that the execution of mentally challenged people was unconstitutional. This was brought about by the argument that the decision by a mentally retarded person is impaired. The court held that this execution violate the eighth amendment. After three years, the court realized that the eighth amendment did not prevent this execution and the law was revoked. In 1989, only the state of Georgia and Maryland barred the execution of the mentally challenged people. The ruling was overturned in 2002. The court considered the public attitude in this judicial ruling which was changing (Finkelman, 2013).

The introduction of lethal injection in 1993 was a step in the revolution of the death sentence. This was to make the death faster and less painful. People were given a choice whether to be injected or to be exposed to lethal gas. Lethal injection was later in 1994 registered as the standard method of execution. The introduction of this lethal injection was a suggestion that many were not in support of the death sentence and were and expressed a sign of sympathy to the victims. In 2006, it was argued that the administration of the drug should be done by qualified practitioners arguing that the previous method was still brutal and inhuman.

Public sentiments have highly contributed to the evolution of the death sentence. Many people do not trust the systems that administer this death

sentences. Many will prefer it dropped. However, due to the change in the trends of crime many still feel that it is a necessary punishment. In 1970, s many people supported the death sentenced but this was revolutionized by the ruling on Furhan case. In 2001, the Americans who were in support of punishment were relatively few and were equivalent to those of Germany and Britain during the period when they abolished this practice (Franklin, 2013).

Globally, the number of countries practicing death sentence has greatly reduced. Only 57 countries are still practicing it. This has been possible due to the adaption of democracy which has upheld the opinion of the general public. In 2007, the united nation called for a global ban on this practice and argued that it is against the human rights. Again in 2008, a large majority of states from all regions adopted a second resolution calling for a moratorium on the use of the death penalty in the UN General Assembly (Third Committee) on 20 November. 105 countries voted in favor of the draft resolution, 48 voted against and 31 abstained. On the religion approach, main religions have encouraged the abolishment of this practice. They argue that only God has the right to give and take away life.

Shatz and Dalton (2013) say that the *Furman v. Georgia* (1972) case stands out in the whole history of the Supreme Court's death punishment jurisprudence. The court bases on the statistical proof that death punishment is infrequently applied to death-eligible defendants, to rule that the Georgia death penalty scheme is extra-judicial under the Eighth Amendment. The Supreme Court acknowledges challenges to the Georgia death penalty scheme on the basis that it is administered to discriminate against African-Americans, (Shatz and Dalton, 2013). This disparity in the application of the <https://assignbuster.com/8th-amendment/>

death penalty based on race and geography renders it unconstitutional in the United States.

Weatherby, et al (2012) notes that in the *Atkins v. Virginia* (2002) case, the Supreme Court votes to reject an earlier death sentence decision to a mentally ill person for capital murder during an armed burglary. The Supreme Court Justice Paul Stevens (qtd. in Weatherby, et al., 2012) holds that death sentences to mentally ill people are cruel and unusual punishments that result in a breach of the Eighth Amendment. The Supreme Court refers to the execution sentences as a violation of the developing human decency and juvenile.

Weatherby, et al. (2012) notes that the opinions within a society regarding the death penalty are always divergent. These views vary depending on personal experiences. Those who advocate capital punishment are the ones who experience threats by high rates of crime. Those who are victimized highly support harsh death penalties, (Shatz and Dalton, 2013).

According to Weatherby, et al (2012) in the United States, death sentence laws always favor the needs of the powerful citizens. This is because this class of people is in a position to influence the opinions of politicians on significant issues. The politicians then legislate policies including criminal justice policies such as the capital punishments that favor themselves and those in their social class.

Following Weatherby, et al (2012) views, there is a constant change and shift in the societal behavior with change in social culture. Years back people had opinions in support of the execution sentences. However, with the evolving needs of the people of the United States, it is now felt that the death penalty is not acceptable. Weatherby, et al (2012) notes that the current system of <https://assignbuster.com/8th-amendment/>

justice has many limits and calls for a long and careful procedure for somebody to be subjected to a death penalty.

Referring to the United States Supreme Court, Weatherby, et al (2012) opines that the court has a major influence on death sentences because its views are put into law. Weatherby, et al (2012) cites the *Wilkerson v. Utah* (1878) case where the Supreme Court bans were disemboweling, public dissecting and burning alive as ways of capital penalties. In the *Furman v. Georgia* (1972), Justice Brennan (qtd. in Weatherby, et al, 2012) gives the standard for capital penalties. Brennan rules that a capital punishment must not be degrading to human dignity, not the one rejected by the society and by public opinion and not one that is patently unnecessary.

In conclusion, the *Furman v. Georgia* (1972) case ruling brings the need of countries to rethink their practice of capital penalties. Limits have to be placed the standards of capital punishments applied to criminals with an aim of protecting human life and human dignity.

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