

Death penalty essay

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



There are differences on the correctional systems in different countries. For instance, some countries openly advocate for death sentence while others do not. For instance countries like Mozambique, Cape Verde, Namibia, Angola and south Africa have abolished death sentence for all crimes. Others which enable death sentence are In the US crime, for which the death sentence can be imposed include; murder related to smuggling of foreigners, murder as a result of a drug shoot-out, killing a congress member, murder associated with the transportation of explosives, among others.

Death sentence in the US serves two main purposes; “ retribution” and “ deterrence” (Delfino & May, 2009). Retribution is based on the atonement theory which states that punishment should be administered to a person because the person deserves it (Banks, 2004). The justification of this theory depends on what the society has decided to be right or wrong. Retribution is based on a consensus model that the society is right and the offender is wrong and thus should be punished so as to comply with the society’s code of acceptable behaviour (Banks, 2004). Walker (1999) argues that retribution is like paying for what is owed and that the criminal pay their debts with death (as cited in Banks, 2004). Deterrence on the other works on the principle that people will refrain from committing crimes because they fear the possible consequences of committing the crimes (Banks, 2004). When one sees that another person has been sentenced to death, because of committing a given crime, the person would see the actuality and the magnitude of the contempt that a society has towards a given crime and would hence refrain from committing the same crime.

There are various philosophical thoughts that govern the use of the death penalty as a correctional tool. This include ethical pluralism, philosophy of retributive justice and deterrence philosophy. According to ethical pluralism, such a harsh sentence should not be administered on an individual without tangible evidence (Banks, 2004). This is because there are situations which have more than one truth and therefore, before sentencing the person or the group giving the sentence should ensure that the verdict is based on the actual truth.

The philosophy of retributive justice is also seen in death penalty. This philosophy argues that punishment should be “ uncomfortable”(Marys & Winfree, 2008). The process of rehabilitating some in the prison should be harsh and life threatening. This is the reason why prisoners are usually subjected to a life of hardship. This can be seen as a measure of making people be afraid of committing crimes.

The Deterrence philosophy as mentioned by Marys & Winfree (2008), is yet another philosophy that governs the process of punishing and rehabilitating a criminal. This philosophy suggests that the penal codes should be structure in a way that they serve to deter crime from happening or being repeated. It is worth noting that there are two dimensions of this philosophy. One, punishment should deter the person who has previously been punished from repeating the crime or committing another crime with its ultimate form being death penalty. This dimension is called “ specific dimension” (Marys & Winfree, 2008). The second dimension is the “ general dimension” (Marys & Winfree, 2008) which aims at ensuring that others do not commit crime crimes due to the fear of being punished.

Death sentence was abolished in the US in 1967 but was later reinstated in the year 1976 with proper guidelines and statutes together with the aggravating factors to the jury and the judges on how it is supposed to be carried out in the federal courts. The jury now had proper guidelines on how the practice was to be done. However, some states in the US never abolished this practice the same way some never reinstated it after abolishing it.

US differ with other countries on the minimum age of a person that can be sentenced to death. Malaysia, for example, has no distinction between adults and minors (Hood, 2002). In India, the minimum age for a person to be eligible for a death sentence is 16 years though this is statutory is being bent at times depending on the magnitude of the charges. An excellent example is a 15 year old youth who was sentence to death in an adult court as reported by Hood (2002) in his book titled " The death penalty: a worldwide perspective". In the US, however, death penalty is prohibited for everyone under the age of 18 years. This complies with Chile's Juvenile Justice System Ordinance that prohibits death sentence to anyone under the age of 18 years. China and Pakistan have also raised the death sentence minimum age to 18 years in the recent past.

Most countries abolish and reinstate the death penalty because of various reasons. For instance Burundi reinstated the practice after the Tutsi massacre, Comoros reinstated the practice on account that there were exceedingly many murder cases in courts and hence introducing was to deter others from committing the crime (Chenwi, 2007). However, some countries like Comoros have never reinstated the practice of death sentence.

The US falls among the countries which abolished the practice but later reinstated it.

Death sentencing is the practice in different countries with differing reasons. Some countries carry out the practice simply because it is statutory in their penal statutes (Chenwi, 2007). Others maintain that they are carrying out the practice as a means of maintaining sovereignty (Chenwi, 2007). Other countries carry out this practice, though in secrecy and this is kept as a state secret. US just like other countries abolished the death penalty in 1972 but reinstated it three years later. The abolition was due to lack of proper guidelines on how the practice was to be. The US reinstated the practice after obtaining new guidelines on the procedure.

As mentioned earlier the main aims of the death penalty in the US are deterrence and retribution. The gradual increase in the number in crimes in which the offender receive the death penalty raises a question on the effectiveness of this practice. Many argue that if the death penalty was effective, then the number of penalties should not be on the rise. The racial question, which is among the principal question in the US, also manifests itself with this penalty. A study showed that the number of African-American and Hispanics who receive this penalty outnumber the whites. This raises a question on whether race is a factor that determines whether one can easily receive such a penalty. This is because the whites outnumber the blacks and Hispanics and therefore, the number of whites receiving this penalty is expected to be high. However, scholars argue that the relationship between the death penalty and race is devilishly complex and that judges consider

darned many variables before sentencing someone to death (Cole & Smith, 2007) .

Usually the number of people who receive a death sentence is lower than the number of individuals who are finally killed as a result of such a sentence. This is because quite a respectable number of people appeal and are found to be innocent. This also raises a question on the effectiveness of such a practice. Some scholars argue on the grounds that if such a number get cleared of criminal charges, and especially after having been sentenced to death, then there is also some who get killed innocently just because they could not prove their innocence.

The question of cost is also considerable concern of whether this practice is effective or not. The cost of carrying out a death is tremendously high as compared to the cost of taking care of some who is on life sentence. This raises concern as scholars believed that there is quite a sizeable number of cases which deserve death sentences but do not receive the sentence as the government is trying to minimise its expenditure on criminal charges.

References

Banks, C.(2004). Criminal justice ethics: theory and practice. California: SAGE Publications

Chenwi, L. M (2007). Towards the abolition of the death penalty in Africa: a human rights perspective. Pretoria: Pretoria University Law Press

Cole, G. F. & Smith, C. E Criminal Justice in America. Belmont: Cengage Learning.

Hood, R. G. (2002). *The death penalty: a worldwide perspective*. Oxford: Oxford University Press.