

Good research paper on death penalty in the united states

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



The death penalty in the United States is absolutely a complicated idea - the notion of sending someone to death for their crimes is considered, by many, to be an outdated notion that was thrown out along with the stockade. At the same time, there is still a great deal of public support for the policy as a means of deterring crime. When contemplating the prison costs and the problems present in the criminal justice system, it becomes a bit more obvious that the death penalty is not a economic or even moral idea.

Because of the divided amount of support for the death penalty, in addition to the likelihood of killing innocent people who have been wrongfully put in prison, the death penalty should be eliminated in the American justice system, instead giving out sentences of life without parole for our harshest punishment and emphasizing rehabilitation and treatment.

Capital punishment used to be a normal punishment in nations throughout the globe for centuries - crimes such as burglary and treason also led to sentences of death (Banner, 2003). Despite this, these sentences were eliminated after eighteenth-century intellectuals wrote about the horrors of the death penalty and curried public favor (Guernsey, 2009). There are a large number of states that do not have any laws allowing the death penalty, and those that do barely still use these laws; most states in America have not executed anyone since 1976, the year when the death penalty was brought back into law. This change of heart is also seen in the number of nations that already got rid of the death penalty; currently 139 countries have completely abolished the death penalty as a form of punishment, with 5 countries making up the homes of most public executions - these include China, Iraq, Iran, Saudi Arabia, and the United States) (Newport, 2010). To

that end, the United States could become the 140th country to eliminate the death penalty, and join the other nations to have done so, which have not suffered for having no capital punishment. Instead, the US is treated as a retentionist state, which can possibly hurt the nation's foreign policy by indirectly linking itself with nations that are often criticized heavily for their lack of sufficient human rights policies (Garland et al., p. 14). Because of this, the United States has sufficient reason on a political field alone to eliminate the death penalty, so they can further remove itself from seeming conservative and overly inhumane. Recently, public support for the death penalty in the United States has stayed somewhat even, but there is enough reticence about how it is applied that it is simply not practical to keep it going as a policy. Currently, 64% of Americans will approve the death penalty as a type of punishment if the defendant has been convicted of a murder; this shows 36% of the population who do not want capital punishment of any type (Newport, 2010). Different polls (which factor in life without parole as an alternative) put the public support for the death penalty at nearly 50%, opponents advocating for the 'life without parole' option. (AmnestyUSA, 2011). This decrease in public approval is shown in real sentences; from 2000 on, there has been a large decrease in the number of death sentences that are administered annually; what's more, they have diminished to the lowest levels ever witnessed since the death penalty was brought back in 1976. The number of real executions is lower too, going down to approximately 50 convicts put to death every year (AmnestyUSA, 2011). Because of the lowered capacity and instances of the death penalty being used, more reasons to eliminate it can be found, since it is not done

sufficiently often to be effective as a practice.

There is even a philosophical component to the unnecessary and ineffective nature of the death penalty. Cesare Beccaria, in his 1764 treatise *On Crimes and Punishments*, applies several principles to punishment of criminal offenders. First, Beccaria appealed to the principle of Reason - this posits that the state as a contract with which the public must interact in order to enjoy its benefits, and provide happiness for as many people as possible. Jeremy Bentham further expanded this principle to form the philosophy of Utilitarianism. Beccaria's book was one of the first organized arguments against the death penalty, which he opposed for two main reasons. First, the state does not have the right to take away that which is more precious than anything to a human being: his life. No matter what crime that person has committed, the person still gets to hold on to their continued existence, as saying otherwise commits the state to a substantial power over the people. In essence, Beccaria believes that there is no way to impose the threat of death on people in the civil contract, because all citizens would have to consent "to lose his life if he murdered any of his fellow citizens" (Kant, E. I. 9).

According to Beccaria, capital punishment just does not do anything, as it is not required to stop crime, and it is not effective as a punishment itself.

There are several other options for punishment that give a greater positive outcome that do not require the ending of the criminal's life, such as jail time and fines. Rather than taking on such a horrifically final punishment, Beccaria suggests that punishment is intended to be preventive and not a means of revenge; killing someone in retribution for a murder they

committed is not productive or humane by any means. In addition, the preventive effects of a punishment is just based on its level of certainty - you will absolutely be punished for your crime - instead of how terrible the actual punishment is. The quick delivery and rate of the punishment must also be fittingly fast and appropriate, if that action is meant to deter further crimes (Beccaria, 1674).

The ethical argument on capital punishment is given further complexity when looking at the data revolving around the execution of possibly innocent prisoners. Death row inmates since 1973 have been released regularly as a result of evidence coming years after their conviction that ends up exonerating them. More than 130 people have been released from death row due to new evidence securing their innocence; prominent examples of this phenomenon include the convict Ray Krone in 2002, let out after ten years of jail after the release of new DNA evidence that proved he was innocent (AmnestyUSA, 2011). Several factors exist that may lead to a wrongful conviction that results in the death penalty being unfairly levied. Bad defense from incompetent counsel can strip a defendant of a real defense; corruption by the prosecution and law enforcement may do more harm against an innocent man to imply his guilt. Eyewitness accounts can often be inaccurate, and perjury can turn lies into truths that harm the defendant. Public pressure to close cases may sometimes force convictions too, in addition to withholding of evidence from a court case that could secure the person's innocence (AmnestyUSA, 2011). Because of these things, there is a lot that can occur to generate doubt about a defendant's guilt in a criminal case, making the harshness of a death sentence cruel and unusual - there is

just too big of a likelihood that the person did not do the crime they are being put to death for. Sometimes, racial prejudice and discrimination can play a substantial part when choosing who gets the death penalty in criminal cases. Statistics indicate that 41% of death row inmates are African American, even though they make up just 12% of America's population in terms of demographics. If African-American defendants and white defendants had the same rate of death penalty convictions, there would not be as many African-American death sentences (Baldus et al., 1990). These sentence rates allude to racism in the criminal justice system that advocates stricter sentences against African American criminals than whites; in addition to that, even though half of the murder victims in America are African American, cases in which black defendants murdered white victims see a much bigger rate in death penalty convictions, 77% of death row inmates being put to death for killing whites. Studies have shown that the biggest factor for a death sentence is the victim's skin color, which alludes to an unfair justice system that should not have such harsh punishments as the death penalty (AmnestyUSA, 2011). The culture of casual discrimination that is rampant in the justice system, even to this day, has led to a higher likelihood of African-Americans being treated much worse than whites. Being African-American typically leads a statistically greater rate of sentences to death row, particularly in instances where white defendants would normally get a lighter sentence. Because of this, it is evident that the justice system is deeply flawed, and attributes that do not reflect the actual crime can have a part in the convict's sentence of death. To that end, the death penalty should not be looked at as a reliable way to fight crime, since crime is not

the only thing deciding who is given the death sentence. If pointing out the possible innocence of death row inmates is not enough to stop judges from administering death sentences, the economic effect of capital punishment is another significant factor. Death row inmates cost taxpayers a great deal of cash, making it a decidedly unprofitable endeavor to put them to death. In order to start a death penalty trial, most states are forced to spend a lot more money than in cases that do not suggest the possibility of capital punishment. Kansas death penalty cases cost 70% more than non-death penalty cases, costing about \$1.26 million for every case on the whole. However, the cost of just keeping a prisoner in jail for life without parole, rather than prosecuting a death penalty case in Kansas is about \$740,000, almost half the price of a death row sentence (AmnestyUSA, 2011). Because it takes so much time and money to go through the expansive appeals system, it keeps draining much more taxpayer money, from the state to the defendants and prosecution. The large sum of money that is spent in order to try for a death penalty conviction is incredible - because of the much lower cost that comes with a sentence of life imprisonment, it would be a cost effective alternative for defendants who have to be punished for harsher violations. When considering the money that has been channeled into the trials for death penalty cases, even though they already cost so much money, the costs go up even more. "Capital punishment in America is characterized by extensive judicial review," meaning that a great deal of work and time is set aside to ensuring the sentence was found impartially (Garland et al., p. 15). The two stages for cases in which a prosecutor wants to hand out a death sentence include conviction and sentencing. Since the

crimes that qualify are so heinous, extra time is given for picking a fair, impartial jury, and to perform special motions. The taxpayer is typically the one who suffers for this; if a trial goes for a death sentence and it is not approved, all of the cash that was funneled into the capital pretrial and trial stages come out of a taxpayer's income. When considering the cost of a life imprisonment or retrial, costs go up even more (AmnestyUSA, 2011).

Because of the old and broken nature of the death penalty, it is necessary to abolish it and stop the practice completely, as that might stop overly career-minded prosecutors from wasting substantial time and taxpayer money on work for a death sentence that he or she stands a low, expensive chance of getting. The lowered resources that state budgets are able to give to their police departments is another factor in the cost of a death penalty. If the funds that go into denied death sentence trials were funneled into the police department instead, millions of dollars could be utilize to boost the law enforcement budget of a state. Victims' services might be made better, drug treatment programs would have more money to work with, and mental health treatment could receive the support it needs to form a system of rehabilitation and recovery that may lessen the environmental attributes that typically bring about violent crimes, such as poverty. Because crime prevention is one of the biggest priorities state budgets have, any newly available resources would likely be used for this department more than others, and other required services, such as health and transportation. If the death penalty were abolished, the funding saved might be used more productively in the state budget, which would provide an overall increase in quality of life (AmnestyUSA, 2011). Proponents of the death penalty think

that it is a necessary deterrent against violent crimes happening to people in the future. In instances of murder, many who support the death penalty believe that the possibility of death itself is sufficient to keep criminals from committing that certain crime. Judge Paul Cassell says, “ The death penalty’s incapacitative benefit comes from preventing the individual murderers who are apprehended and executed from killing again” (2008, p. 17). The death penalty offers a basic deterrence, using logic to hold the majority of the population who could potentially murder at bay. Furthermore, individual murderers being executed prevents them from murdering again. Given these arguments, the death penalty is certainly perceived as a motivator for criminals to stop themselves from murdering others, since its punishment is final and completely harsh.

Conversely, those who oppose the death penalty have a mostly moral argument; according to them, it is cruel to extinguish the life of another human being no matter what they did. This act is said to violate their basic human rights and dignity, making it immoral to be performed regardless of circumstances - “ In Brennan’s formulation, ‘a punishment is ‘ cruel and unusual,’ therefore, if it does not comport with human dignity’” (Garland et al., p. 100). Furthermore, there is also a level of ambiguity regarding the guilt of those being put to death. The doubt is so great that states like New Mexico have completely abolished the death penalty, stating that “ if the state is going to undertake this awesome responsibility, the system to impose this ultimate penalty must be perfect and can never be wrong” (AFP, 2009). The flaws of the criminal justice system must be fixed if one is to think of death penalty as an appropriate punishment that is only distributed

to those actually guilty of harsh violations of the law.

The death penalty is a severely flawed and unnecessary punishment that should be outlawed. Beccaria's philosophies demonstrate the unnecessary and unethical nature of capital punishment. Statistics show that the criminal justice system does not have the skill to catch and convict guilty parties to a crime every time, leaving the possibility for innocent lives to be lost. The costs and time used up in trying to get a death sentence are far too much for a taxpayer to tolerate, and might be removing needed resources from state and law enforcement budgets. The racial and discriminatory attributes that are inherent to the justice system creates a racist and unfair system that puts in a lot of uncertainty as to their guilt, which raises the question of whether or not they are executing the actual criminal. Public opinion and international law strongly favor abolishing the death penalty. Given these arguments, it would be tremendously prudent to eliminate the death penalty.

References

AFP. (2009, March 18). New Mexico governor bans death penalty. AFP.

Retrieved August 12, 2011, from [http://www. google.](http://www.google.com/hostednews/afp/article/ALEqM5iUcLhqwlBEQ6-b-J7rzRd2ISuv3g)

[com/hostednews/afp/article/ALEqM5iUcLhqwlBEQ6-b-J7rzRd2ISuv3g](http://www.google.com/hostednews/afp/article/ALEqM5iUcLhqwlBEQ6-b-J7rzRd2ISuv3g)

Baldus, DC, Woodworth, G., & Pulaski, C. A. (1990). Equal justice and the death penalty: legal and empirical analysis. UPNE.

Banner, S. (2003). The death penalty: an American history. Boston: Harvard University Press.

Beccaria, C. (1764). On Crimes and Punishments.

Cassell, P. (2008). In Defense of the Death Penalty. Journal of the Institute for

<https://assignbuster.com/good-research-paper-on-death-penalty-in-the-united-states/>

the Advancement of Criminal Justice, 2, 14-28.

International. (n. d.). U. S. Death Penalty Facts. Amnesty International USA.

Retrieved August 10, 2011, from <http://www.amnestyusa.org/our-work/issues/death-penalty/us-death-penalty-facts>

Garland, D., Meranze, M., & McGowen, R. (2010). America's death penalty: between past and present. New York: New York University Press.

Kant, I. (1790). The Metaphysics of Morals. Trans. W. Hastie.

Newport, F. (2010, November 8). In U. S., 64% Support Death Penalty in

Cases of Murder . Gallup. Com. Retrieved August 10, 2011, from <http://www.gallup.com/poll/144284/Support-Death-Penalty-Cases-Murder.aspx>

Guernsey, J. B. (2009). Death penalty: fair solution or moral failure? Twenty-First Century

Books.