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Law, Capital Punishment



Monique Priorello November 5, 2012 Constitutional Law Prisoner Rights Of all forms of punishment, the death penalty is by far the most controversial and also the most rarely used. Capital punishment was once almost the only penalty applied to convicted felons. By the time of the American Revolution, the English courts had defined more than 200 felonies, all of which were “capital offenses”. However, many death penalties were not carried out; instead, offenders were pardoned or banished to penal colonies. Over time, courts and legislatures began to recognize other forms of punishment, such as imprisonment and probation. In the times of the American colonies, capital punishment was used extensively in England and in the early American colonies, as many crimes other than murder resulted in a penalty of death. Corporal punishments, often very brutal, also often resulted in death as the imposition of such torture severely injured the offender. Both torture and executions were often carried out in public, as a deterrent to others. The idea was that if others saw what the punishment was for such a crime, that perhaps the said crime would be prevented from happening altogether. Public executions, however, were ceased in 1936 when several thousand people witnessed the execution by hanging of a black man convicted of raping and murdering a white woman in Kentucky. Prisoner rights are based on a general principle that each prisoner will be deprived of liberty, but will still be entitled to basic human rights. Many advocates for prisoner rights will argue that many prisoners are deprived of the basic human rights. Many people believe that the prisoner should not be entitled to any rights and the only exception to this belief is that the prisoner may not be put to death without a fair trial (Net Industries, 2011). The most

common view of society is that a prisoner is sentenced to prison as a way to pay for their crime. Prisoner rights are necessary to avoid violations under the law of the United States. Even though these individuals have committed a crime against the law he/she is still a human being and under the United States laws he/she is still entitled to individual rights on a basic level. It is crucial to be aware of what is a violation under the United States law of a prisoners right. The Eighth Amendment recognizes that a legal precedent for prisoners and acknowledging that prisoners are not exempt from being treated fairly. The Eight Amendment recognizes that the prisoner still has the right to be free from inhumane conditions. The Eight Amendment of the Bill of Rights of the united State Constitution states: Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments imposed (Article Myriad, 2010). ❖ For several centuries this amendment did not apply to prisoners, as they were not considered eligible for this right. The main purpose of this amendment is to ensure that the prisoner is treated in fairness and humanely. Many prison systems provide the basics of everyday life to accommodate this Amendment. Some examples of this are toiletry items, food, basic shelter, basic clothing, medical assistance, and minimal recreational options for mental and physical well-being. As the prisons accommodate the Amendment the prisoners are served according to the conditions of the Eight Amendment. Prison can have both positive and negative effects on an inmate. As the prisoner begins his/her sentence the reduction of rights can have positive and negative effects. The positive effects that result can include a chance to learn new ways to conduct themselves behaviorally upon release, rehabilitation for drugs or alcohol, and

significant reduction in responsibility of everyday life that cause stress and adverse behaviors. More commonly prisoners will have a negative impact by becoming incarcerated. By having such drastic restrictions in a very short period many behavioral changes can occur. Some of these behaviors include prison talk (altered communication style), increased hostility, violence, gang affiliation, and a gradual disconnect from any societal influences (family, friends, etc.) (Uplink. com, 2010). Another common adverse effect of prison is that of the sudden confinement, which leads to possible psychological detriments, altered self-perceptions, and can exacerbate pre-existing mental illnesses increasing risks to the well-being of the prisoner (Uplink. com, 2010). There was a common distress among prisoners of feeling as if their rights had been violated by an official of the state or federal systems. In the 1970s-1980s a common lawsuit was pursued called the Section 1983 lawsuit (Burk Foster, 2006, p. 332). It became one of the most influential civil rights litigations of the period and is still pursued to this day. This lawsuit states Every person who, under color of any statute, ordinance, regulation, custom or usage, of any State or Territory, subjects of causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit at equity, or other proper proceeding for redress. ♦ (Burk Foster, 2006, p. 332). This was often a result of a government official accused of depriving a prisoner of constitutional rights. This has impacted the policies and procedures of contact between government officials and inmates. The implementation of prisoner rights is important, but needs to be limited as the

purpose of prison is to punish an individual for wrongdoing against society. If more than the basic human rights are adhered to the prisoner would be receiving no form of punishment, in my opinion. As stated before, prisoner rights are necessary to avoid violations under the law of the United States.

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