

Cruel and unusual. the end of the eighth amendment - dissertation example

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Cruel and Unusual. The End of the Eighth Amendment

“Cruel and Unusual: The end of Eighth Amendment” Joan Dayan analyzes the severity of pain suffered by convicts throughout their period of confinement and a relief brought to them in the form Eighth Amendment. The Amendment was approved and included in Bill of Rights in 1791 as part of the US Constitution. It condemns the inhuman and unethical persecutions on the slaves captured. Precisely, evidences reveal that torture was beyond imagination as they were wounded both physically and mentally. Hence, the Amendment states “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” (as qtd in Dayan). Crime is a universal phenomenon, and awarding punishment is nothing but justice done to the crime committed. Dayan asks a question, ‘how has it been interpreted?’ He is confused with the strategies applied in punishing the slaves like ‘whipping with the strap’ and pulling out the flesh from the body. With the Amendment in power, legal punishment came into existence, prohibiting “cruel and unusual punishment” (Dayan). The concept of such safeguarding Rights appeared during the reign of William and Mary, and this was later adapted by American colonists in their principle. Pathetic life condition of the slaves and prisoners result in shedding tears, and it is reported rightly; “let us not forget the needs of the slaves” (Dayan). Surprisingly, their basic necessity that he intended was none other than their “personal security”. Although, the Amendment could not defend them for centuries, it got succeeded for a short span of time. But later, the following generation could not accept the ideology of being merciful and generous as the Amendment protects such rights of a slave or a prisoner. Many of the

rulers, regions, and courts condemned such rights of the prisoner. They enjoyed certain privileges and rights, “ but not the rights of free men” (Dayan). Eventually, it invited many criticisms due to its irrelevance in the contemporary world, and layers twisted the commands and principles by using logic and inference. After a detailed study, it is a matter of question why there is no any alternative treatment for the criminal. No doubt that justice should prevail in the society. The time is knocking at the door of realization and enlightenment. Do they have not the right of reconciliation and transformation? Will this cruel punishment remain as an ultimate solution to the crimes committed? As human being, a rational animal should get an opportunity to transform himself from the bondage of sin and slavery. Therefore giving a second chance can definitely have positive change in him. Imposing greater punishments and pain will have a negative impact on the society, although its merits are not negligible. This can have adverse effects on the society making people to live under the fear of punishment and control. In such cases, political movements can be challenged as they involve in many illegal activities. When keeping footsteps in to a new scenario, it remains a controversial topic to be discussed. Looking at various aspects of life, it is difficult to come to a conclusion; on the one side, increased crime rates while on the other, advanced and broad thinking capacity of man. As death penalty falls in to the category of ‘ cruel and unusual punishment’, it is crystal clear that we have not welcomed many changes. No wonder, punishments are mandatory in order to establish peace and harmony in the society but going away from the focus of such aspects cannot be entertained. As every good deed attains a merit or reward, the

punishment is the reward for the offence. In the present society, attitude of people is reasonably different as they make a liberal approach towards legal system and consider prime value for human life, the utmost creation. As society is convinced of the fact that human has the tendency to fall, but the world that condemns the crime not the criminal. Though certain crimes deserve severe punishments, termination of life and psychological torture are not encouraged by this generation, I would say the majority. As punishment is inseparably associated with crime, it is quite essential to have a revelation to deal in an appropriate manner, specifically the powerful ones who enjoy the supreme power over the faulty. Numerous alternative punishments are the vision of modern society that includes community service, training and different man power activities. Apart from all these, the credibility of judiciary and legislative system is measured on the basis of chance given to rectify the mistake. The dream of the society is to have a world with peace and harmony, and not war and violence. Above all, what should be given priority is how a crime can be prevented from its starting point, rather than how it can be treated or handled once it is being committed. Reference Dayan, Joan. "Cruel and Unusual. The end of the Eighth Amendment". Boston Review, Oct 7, 2004. Web 10 July 2013 <http://www.bostonreview.net/dayan-cruel-and-unusual>