

# [Should capital punishment be used for crimes involving the 1st degree murder (pre...](https://assignbuster.com/should-capital-punishment-be-used-for-crimes-involving-the-1st-degree-murder-premeditated-killing-and-felony-murder-kills-without-intent-in-the-commission-of-a-felony/)

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The death penalty issue was always relevant throughout existence of the states. However, one should not overestimate the position of its importance in the modern world, what is common in many policy makers’, legislators’ and scholars’ opinions. This work does not have any propaganda or ideological goal; it is a scientific analysis of the issue of the death penalty. It will highlight this phenomenon as objectively as possible. Interpretation of the term “ murder” causes a lot of moral and legal disputes.

From the point of view of the modern law, crime is causing the death of one person to another. The Biblical commandment “ do not kill” is addressed to citizens and governments: the murder and the death penalty are immoral equally. However, there are also a lot of people in the world who advocate for the preservation and the widespread using of the death penalty. Science has proved that crime is generated by the subjective, objective and negative causes and conditions in the interaction. Their effect is not fatal, a lot of people are held of the crime by high moral consciousness, and only persons with a weakened public setting trap into circumstances and commit crimes.

When people talk about the need to maintain the death penalty, for some reasons they forget about causality in criminology. The causes of the crime are not only criminological, but also have a legal significance. The poverty of the population, fast decline of the authority of the law and the law enforcement, the bloody ethnic conflicts, terrorism, unemployment, alcoholism and drug addiction are the reality of these days. Can it be ignored, blaming the society and the state for killing? No, it cannot. It can be said that a role in the genesis of the crime plays hereditary. It also will be true.

The previous generations transfer their genetic code to the future generations, what already contains a certain set of social behaviors. At the same time, the action of the hereditary is not necessary, under the favorable conditions negative inclinations are thwarted by not having appeared. There is no universal prescription of addressing causes of the crime, and it cannot even exist as the social causes of the crime and the mutual contributory negligence (the offender and the society) are inhumane. Such an argument can also be reduced against to the retention of the death penalty. The unerring justice does not exist. There were cases of miscarriages of justice, when the court convicted innocent people.

There is no justice which works without mistakes. In the presence of the death penalty, this means that executing of innocent people is more than possible. So, it is one the first reasons to give up on this exceptional form of punishment. The well-known formula: “ it is better to justify ten guilty, than to convict one innocent” is especially clear, when people are talking about the death penalty. On the other hand, the society has not developed the effective measures to prevent errors in any field yet, including the judiciary one. Nobody refuses the treatment, although, every third autopsy reveals medical mistakes that led to death.

Also, in most cases, the offender expects to escape punishment, so that the death penalty does not affect in a right way. Also, a person who commits a crime which is punishable by death penalty and persecuted by justice can think he is in a situation when he has “ nothing to lose”; as a result he is committing new crimes to avoid the responsibility. It is also noted that the death penalty is ineffective in attitude to one of the most dangerous categories of contemporary criminals: terrorists and politically motivated extremists, as a lot of them ae suicide bombers or those who constantly risk their lives during the crime. The opponents of the capital punishment say that the fear of punishment does not reduce the number of murders. The proponents of maintaining the death penalty say the same things about the life in prison.

There are no accurate scientific conclusions about this point. The deterrent value of the law is indisputable. In assessing the effectiveness of it, the essential transparency of statistics is extremely crucial, but also still very incomplete. In practice, one can see that the appointment of strong penalties for serious and very serious crimes is effective, if such a line is drawn in sequence. Conversely, too soft penalties for serious and very serious crimes cause protests in the public, adversely affect the citizens with anti-social setting, a weakened will, low educational and cultural level, what are prone to illegal activities.

The society becomes hardened; murders become almost usual, human life is devalued. It is believed that the main issue of death penalty is a dispute of its opponents and supporters about the existence of the death penalty. In this regards, there are two public “ camps” – the abolitionists (“ against”) and the retentsionists (“ for”), who form the current state of public consciousness. Despite the clear positions’ separation, they have far less contradictions than they believe. The death penalty was artificially created for political manipulations in the society. The cluttering of the theory had an impact also on the practice: the death penalty has lost its social purpose.

The support or the rejection of death penalty is a consequence of the varying views of the system, and has a secondary character. According to supporters of death penalty, the death penalty at this historical stage of development of the society should not be excluded from criminal penalties, because it is relatively useful and even necessary for the society as an equivalent to the most dangerous criminal manifestations. The death penalty is necessary to restore social justice, which is one of the purposes of the punishment. Death penalty is considered, above all, not as a specific criminal retribution, but as a form of the society protection against anti-social elements. Speaking about the life imprisonment as an alternative to death penalty, it does not completely eliminate a threat of the public safety.

The life imprisonment is not convicted as an escape of a person or release under an amnesty (including the changing the political regime). A lot of people think that the death penalty should not be excluded from the law of any country. The state should be able to apply this extreme situation punishment. Another thing to do is to narrow down the offensive actions and to introduce an obligatory element of the recurrence or quantitative factor (ex. the convicted person must perform at least two crimes). There are no doubts that anyone would mind, if the terrorist, who exploded buildings, was executed; or a maniac, who was killing people bloodthirsty.

There are such cases, when leaving the man alive is disproportional to those crimes that he committed. The supporters of death penalty also identify a number of its advantages: – Economic side. Taxpayers (including relatives of the victims and the victims) do not have to pay the permanent alimony of the offender. – Protection. The death penalty is the most reliable protection of the society from criminals. – Preventive action.

Penalty affects and hinnders a person from committing a crime. – The act of humanism. The life imprisonment is not better than the capital punishment, and it is even more cruel way to punish. This is exactly the same, only “ on the installment plan.” – The right to revenge. The state helps victims to quench the thirst for revenge, making a fair trial and paying criminals the same pain they have caused.

Many opponents of the execution say that it is inhumane. However, can life imprisonment be called a humane measure (which is offered of the overwhelming majority as an alternative), especially in nowadays situation? As was mentioned earlier, the re-educational element was also excluded in the life imprisonment. Then, maybe, it will be more humane to offer a choice to the convicted person. It is worth considering that perhaps this is the “ Skeleton Key.” According to laws of some countries, the death penalty as an exceptional measure of punishment can only be used for the most serious crimes against life. The death penalty is not imposed to women, those who committed crimes before the 18 and men who reached the 65 – year-old age.

However, this question is necessary to be highlighted more. For the recognition of a person’s guilt in a murder, it must be established that there is a straight connection between the act or omission and the victim’s death. The determining factor is that the criminal result is not a random action, but an intentional consequence of the actions of the perpetrator. The murder is recognized as a completed crime, since the death of the victim, regardless of the fact, has followed immediately or it has come after some time after that. In deciding the appointment of the perpetrator of the death penalty, it must be borne in mind that death penalty can be applied only when the need for its use is caused by special circumstances, aggravating, and an extremely danger of a person who has committed a serious offense. The court should also explore the mental state of the defendant.

Using of the death penalty in all cases must be justified in the judgment on the basis of the established circumstances of the crime and the data that characterize the defendant exhaustively. The death penalty is necessary also because other elements of the social constraints of regulation (moral and religious standards) have not yet proved its effectiveness. One can come to the conclusion that the death penalty is mandatory only in cases where the cause of the murder was investigated along and across, when there was almost 100% of the evidence of his guilt. Nowadays, the urgent measures for improving the law are necessary. Drastic measures to combat all crimes, especially murders, are needed.

The existence of law, its reasonable application and effective enforcement, of course, has the general and particular deterrent value. However, in any case, one must not forget the well-established and powerful explanatory work among the population. Society should be adequately protected from murderers, not to save the punitive rhetoric. The tougher of the penalties is made to protect the innocent. Finishing this work, it is important to quote the French jurist’s Tarje: “ The true wisdom respects humanity, but it will not bring the sacrifice of the public safety.

The necessity of the punishment is the thing, what makes it legal. The purpose of the punishment is not in the suffering of a guilty person, but in the prevention of the crime… “. One would totally agree with this statement.