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### Capital Punishment in America: Why or Why Not?

If there ever was a topic that fostered such complex deliberation for an undergraduate to write a critical-thinking essay about, it would, without a doubt, be the issue of capital punishment. Seeing as how it is impossible for even the simplest of societies to reach a common opinion on the subject, there is no point to plainly argue in favor of the death penalty or vice versa. This debate will simply present the aspects of the death penalty in a manner intended to expand the reader's brain, get them to think critically of more than one way to approach the problem, and eventually help to form or expand upon their own judgments. For starters, we need understand if people really appreciate justice  against criminals. Then contemplate if the death penalty serves as a legitimate deterrent to criminals. In an attempt to explore a wide range of opinions, this essay will discuss the views and morals of the American people, then compare that to different societies around the world. Another important aspect to consider is how an economist or utilitarian would construct an argument. We will consider the feelings of the condemned, as well as ponder the desires of the victims and/or the victim's families.

Why does the death penalty even exist? There must a reason why society feels it is necessary to punish those who do not follow the rules; a trait which is commonly held by most of the world. Jonathan Haidt explains the situation as a set of five psychological systems that most mammals are born with. They are: harm/care, fairness/reciprocity, loyalty, authority/respect, purity (Haidt  2007). These traits have been hard-wired into every human on the planet through

cultural evolution. Because of the harm/care trait, most mammals appreciate virtues such as kindness and compassion fostered by the dislike of any suffering within society. Therefore, cruelty and aggression are considered vices. The second trait, fairness/reciprocity, elucidates how societies are reciprocal in action, consequently justifying action against those cause suffering. “The long history of alliance formation and cooperation among unrelated individuals in many primate species has led to the evolution of a suite of emotions that motivate reciprocal altruism, including anger, guilt, and gratitude” (Haidt 7:2007) Basically, we naturally care for others, and when someone causes problems humans tend to get emotional. Emotional humans desire justice or “fairness”, which is where capital punishment comes into play.

Notice also how society, especially in America, has been constructed. The U.S. is a country founded on Christian principles, so what does the Bible say about capital punishment? “Whosoever sheds the blood of Man, In Man shall his blood be shed...” (Genesis 9:6, The Holy Bible) has been taken to literally mean that those who commit murder are subject to death themselves; but by whom? “If a man or a woman living among you in one of the towns the Lord gives you is found doing evil in the eyes of the Lord your God in violation of his covenant...and this has been brought to your attention, then you must investigate it thoroughly. If it is true...take the man or woman who has done this evil deed to your city gate and stone that person to death” (Deuteronomy 17:2-6, The Holy Bible). Apparently humans are charged with the responsibility to kill those who sin within their own society. The Bible also mentions “let him who is without sin cast the first stone” which means “If the death penalty is understood as an act of God (as it certainly was in ancient Israel), then the judge and executioner must be morally above reproach” (Yoder 438:1991). So who is supposed to carry out the punishment remains contradictory because it is human nature to sin. However, because it was this way in ancient

times, and our society still conforms to most of the Biblical principles, we still exercise the death penalty because “to kill a killer [has become] a ritual act” (Yoder 436:1991).

Now that we have established our society’s thirst for fairness, it may be easier to understand why the death penalty was created. However we must wonder if the death penalty serves as a deterrent to possible criminals. The answer seems to be no for several reasons. First of all, “since the mid-1960s, no one in the United States has been executed for a crime other than murder” (Bailey and Peterson 1994:136). If the death penalty only applies to those convicted of murder then possible criminals who would commit lesser offenses (even rape) need not worry of being executed. Because of this, most research on the deterrence effect of capital punishment is measured by the fluctuations in homicide rates within the subject area. One particular study measured the “Murder Rates for Neighboring Death Penalty and Abolitionist States, 1977-93” (Bailey and Peterson 1994:139). Bailey and Peterson summarized by stating “studies of changes in murder rates before and after the abolition and/or reinstatement of capital punishment revealed that states that abolished the death penalty did not experience unusual increases in homicides. Rather, abolition and/or reintroduction of capital punishment was sometimes followed by an increase in murders and sometimes not. In addition, changes in the murder rates of states experiencing a change in the provision for the death penalty paralleled almost exactly changes in homicides in neighboring states where no statutory change had occurred.” (1994:138)

So it seems that in the decision process of criminals, the threat of execution weighs little on whether to carry out the deed or not. Within the several possible explanations of this data, it could be that murder, in most instances, is a crime of passion soliciting anger, revenge, or protection so the thought of one’s own death is not present when making the decision to kill. Another possible problem with capital punishment is that there is a large difference between

receiving a death sentence and actually being executed, and criminals must know this. The Bureau of Justice Statistics published in 1994 shows the results vary from state to state, but the highest percentage of executions out of total death sentences was in Virginia at 22 percent. Only six states total have percentages higher than ten. This is assuming that the offender received the death penalty, which in most cases is not true. The common punishment for murder is imprisonment. Nevertheless, there remains sufficient evidence that capital punishment carries very little, if any, deterrent to criminals.

If not good for deterring offenders in the first place, what other positives could come about from the death penalty? Given that “utilitarian's equate good with pleasure, happiness, contentment...and they equate bad with pain and suffering” (Morey 2009), a utilitarian would say there are several benefits. In most cases, execution, or just a death sentence, can be a powerful notion in favor of the victim and/or the victim's family. It is the fact that justice has been served that allows those devastated by the loss of a loved one to have a sense of closure, thus increasing their utility. Also, if the criminal is put to death, they can never harm another human being again which raises the utility of everyone in that particular society. Unless, of course, convicted prisoners are not part of society then being locked up for life can be another reasonable solution. Think about if the murderer kills someone in prison. Do these people matter to the majority? The deceased is not part of society, thus having no effect on anyone outside the prison walls. This might even raise utility if people see it as a good thing, where they are helping to decrease the prison population. This opinion would vary from person to person as well.

The death penalty can still have positive effects for those who oppose it as well. Just because capital punishment exists, it can raise the utility of people without an execution taking place. Take into account the Green River Killer, Gary Ridgway. He confessed to killing at least

71 women in the Seattle area. After he was apprehended, Gary and his lawyers accepted a plea bargain stating that he would plead guilty to 48 counts of aggravated first degree murder, and led authorities to where he placed the bodies. Had Gary not taken the deal, he would have certainly received the death penalty. In this instance, no one was executed and 48 families were able to retrieve their loved ones and have them properly buried. One of Ridgway's lawyers, Mark Prothero commented on this at the end of his book, *Defending Gary*. "As for me, I make no apologies for helping to get Gary Ridgway life in prison rather than execution. Through this agreement, law enforcement was given a rare opportunity to get inside the mind of the nation's most prolific, and horribly successful, serial killer. Knowledge was indeed gained, knowledge that will help in future serial murder investigations. And, hopefully, save some lives." (Prothero 2006:530). Seeing as how Ridgway never would have confessed if there had not been the possibility of execution, utility was significantly increased for all the families in allowing them to receive closure. However, did their grief from knowing Gary would live outweigh their satisfaction of retrieving the body of their family member? That would vary on a personal basis, so no one could conclude whether higher overall utility was achieved or not. It is possible they hope he may be killed in prison, which might help as well. The principle remains that the said criminal is no longer within the public causing problems.


On the other hand, there are instances where the death penalty serves no purpose. For example, when the criminal is prepared to die for their cause, capital punishment renders no threat to them. It may even increase their utility as they may become a martyr to their cause. However, the biggest form of disutility of the death penalty is still that some innocent people still get sentenced to death. The Governor of New Mexico, Bill Richardson, recently signed a bill abolishing the death penalty in that state because he felt the system was flawed. He discussed

that 130 death row inmates have been freed since 1973 and said that “The sad truth is the wrong person can still be convicted in this day and age, and in cases where that conviction carries with it the ultimate sanction, we must have ultimate confidence, I would say certitude, that the system is without flaw or prejudice. Unfortunately, this is demonstrably not the case” (DPIC 2009).

Provided that the “United States is the only Western nation that retains capital punishment for common murder” (Bailey and Peterson 1994:152), how do Americans feel on the subject? As of right now, support for the death penalty is still the majority, but is slowly declining. From the website for the Death Penalty Information Center, there are results from a new national poll indicating that support is at 64 percent; down from 69 percent in 2008. They believe that this stems from the discovery of how much it costs taxpayers to fund the appeals in a death penalty case. A recent Colorado poll, also on the same website, indicated that voters would rather spend the money on closing unsolved murder cases (DPIC 2009).

However, some Americans still believe execution is the just way to deal with murderers. Ron White is a comedian, formerly part of the Blue Collar Comedy Tour, that represents the “good ol’ southern boy” mentality. He is extremely popular in the southern states, especially Texas. During the first *Blue Collar Comedy Tour* (first CD/DVD), Ron commented on the death penalty. “In Texas, we have the death penalty and we use it. That’s right. If you come to Texas and kill somebody, we will kill you back. That’s our policy.” (White 2003) Because people like White are still the majority, it must remain that some, but not all, people still appreciate this certain type of justice; you reap what you sew. He went on to mention that there was a bill in the Texas legislature that would speed up the process of execution if the case had more than three creditable eye witnesses. “That’s right. If three people saw you do what you did, you don’t sit on

death row for 15 years Jack. You go straight to the front of the line. Other states are trying to abolish the death penalty; my state's puttin' in an express lane!" (White 2003)

The last part to take into consideration would be the economics part. Is it cost effective, from a monetary standpoint, to put someone to death? Popular opinion says no but it all depends on personal preference. If someone in your family was murdered, how much would you pay to have them executed? Several states are moving away from the death penalty just because of the court costs. Because of Governor Richardson's actions to abolish the death penalty in New Mexico, the state expects to save a large amount of money. "Jury selection is a long, arduous process that potentially touches on the constitutional and religious rights of New Mexicans, and costs at least four times as much as a non-death first-degree murder case." (DPIC 2009) The attitude seems to be the same in Colorado. "A recent Colorado poll conducted by RBI Strategies and Research found that 63% of citizens believe that money spent on the death penalty would be better used to close unsolved murder cases." (DPIC 2009) Also, a judge in Texas, Ron White's home state, is moving away from the death penalty citing possible innocence of the accused and "a capital trial cost over \$3 million. Well, we can keep a person in prison for life for about \$500,000" (DPIC 2009). So, if the outcome of execution or life in prison is the same for society, then strictly from an economics stand point, it seems  that the costs outweigh the benefits.

Given that money rules the world we live in, especially with America's current economic situation, it is not surprising that the majority of people are starting to lean away from using the death penalty. It seems that capital punishment is becoming viewed as outdated, flawed and too costly to make any sense. People should be punished for their actions, but the risk of killing an innocent person seems to be an increasing concern. Just throw the criminal into the "clink" for the rest of their miserable life and that will suffice. It remains a matter of personal preference

and morals. How do you feel about the subject? And would you feel differently if you were the accused/victimized?



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