

The Justification for Capital Punishment in Justice Systems

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One of the most debatable issues in the modern state of justice is the application of capital punishment as it continues to spark a great number of academic discussions in most communities. Capital punishment is the systemic execution of a human being by the authority of state as a legally accepted sentence for crime, primarily for the crimes that are viewed as the most serious. Proponents of capital punishment justify its application by the necessity to stop the further most serious crimes and present it as a piece of retributive justice for the communities affected by such crimes. Opponents of capital punishment, however, claim that there are no ethical grounds for its application and resulting from the fact that this type of punishment can lead to the most irreversible mistakes and violates basic human rights. Consequently, it is essential to analyze the arguments that support the application of capital punishment and those examples that oppose it in order to evaluate the existence of ethical grounds for its justification in modern justice.

Historical Context of Capital Punishment

Historically, capital punishment has been recognized and used throughout different cultures and societies in significant ways, often exposing the social, political and legal norms associated with its administration at the time. In ancient civilizations in Greece, Rome and China, capital punishment was a common practice used for a wide array of crimes, extensively for treason or for stealing, asserting and exerting political order and authority by killing a person for particular unlawful acts (Gorecki, 1987). This practice went on into the Middle Ages in Europe where the death penalty was often used publicly with the view of deterring the specific crime from other people and as punishment to the specific convict, further consolidating the political power of the sovereign over the state and its people (Gorecki, 1987). With the advent of the Enlightenment, however; philosophers began to critique the death penalty in terms of its usefulness and moral justification (Gorecki, 1987). Eventually, the development of anti-capital punishment movements in the following centuries marked a profound change in the perception of the global society towards the irrevocable nature of the death penalty (Gorecki, 1987). Thus, the death penalty remains a complex legal mechanism with a profound historical background pertaining to the workings and traditions of different jurisdictions.

In addition, the capital punishment system depended on the changing social perceptions, as well as on changes in the legislation. The latter implied the shifting towards the recognition of particular importance of human rights and freedoms, and the specific changes in the criminal code and criminal policy. The awareness of the right for life gradually led to the abolition of capital punishment in some parts of the world, and in those countries, where it was still practiced, criminal procedure law integrated some guarantees due to the growing awareness of the importance of the right (Gorecki, 1987). It was a direct answer to the shifting in perception. The capital punishment and the surrounding system are a perfect example of the interdependence of the law and perceptions, and the policymakers often have to adjust the policies used in the criminal system to the changing perception and understanding of what is justifiable and necessary for punishment (Gorecki, 1987).

Legal Foundations and Global Perspectives

International and foreign law's stance on the death penalty is remarkably different from national law's position. The country of these differences lies in the dissimilarity of the framework, such as constitutional law, statutes, judicial interpretations, and obligations of states on international human rights. For the American legal system, the death penalty is legal under the Constitution and may be used in certain cases. However, other countries have prohibited the death penalty altogether and have limited the death penalty to certain crimes. Per international law provisions such as the protocols of the International Covenant on Civil and Political Rights, states should limit the use of the death penalty and protect the rights of persons who would not be subject to the death penalty through legal mechanisms and enforcements. Some countries, however, have divergent positions based on different interpretations of these concepts and are attempting to implement these human rights laws, the principle of non-discrimination, and the protection of rights (Robinson & Moody, 2019).

Furthermore, existing legal systems around the world demonstrate significant variations with regard to the use of the death penalty where some countries still use it while there are others that have prohibited this punishment. One of the countries that continue to practice the death penalty is the United States where each state is allowed to use this punishment, although there are significant variations from one state to another with regard to the application of the death penalty and the legal standards that govern its use (Robinson & Moody, 2019). By contrast, several countries in Europe have prohibited the application of the death penalty where they justify their stance through invoking the obligations arising from their adherence to the international human rights treaties, as well as the fact that this punishment is inconsistent with the development of the judicial practices in the continent. Furthermore, other countries such as Japan and Saudi Arabia continue to uphold the legality of the death penalty and implement it frequently for a

number of crimes. Hence, these examples show that there are significant international controversies surrounding the legitimacy and fairness of the use of the death penalty in existing legal systems and the difficulties associated with aligning its practice on the domestic level with the highest human rights standards (Robinson & Moody, 2019).

Arguments Supporting Capital Punishment

The most common pro-death penalty arguments include deterrent effect, retribution, and enhancement of public safety. Death penalty supporters argue that executing a potential murderer deters others from killing and makes society safer; hence, capital punishment reduces the level of the most serious crimes and protects future victims. In addition, they believe that the death penalty serves a moral obligation of society, making sure that offenders guilty of their horrendous crimes receive a punishment that is fair and just. Some experts go as far as to suggest that when it is established that the death penalty does have a deterrent effect, then regarding the absolute commitment to the sanctity of human life, society may find that the imposition of the death penalty, even with recognized dangers (e.g., judicial error, randomness, bias and inequality), becomes a moral imperative (Sunstein & Vermeule, 2014). Arguing from practical and moral standpoints, advocates of capital punishment claim that it remains a justified instrument in modern criminal justice (Sunstein & Vermeule, 2014).

The argument, center of the discussion surrounding the death penalty, engaged empirical evidence and statistical findings to support that the death penalty brings reduction in violent crimes. The original supporters of the death penalty claimed that statistically proven eventuality of the death penalty discourages potential criminals from accomplishing illegal acts, like for example murder or aggravated assault. Several decades old compilations requesting before and after execution records of homicides and some even claimed that statistically proven presence of death penalty in a criminal law leads to lower overall counts of murder (Sunstein & Vermeule, 2014). Critics have raised counterarguments in terms of methodology and establishing statistical relation or effect of death penalty, but several supporters turn over to original claim providing supporting arguments that if existent, statistically proven evidence, showing reduction of violent crimes and violence incidence due to death penalty, then this can serve with strong utilitarian purpose in pursuing and legitimizing its use in criminal systems of justice (Sunstein & Vermeule, 2014).

Moreover, one another argument that is at the base of the justifications of the death penalty, is the retributive justice. Retributive justice is the explicit explanation for arguing for capital punishment, and especially bearing in mind the idea that executing someone is a need. The arguments on behalf of the retributive justice state that it is needed to punish the most serious crimes proportionally, since a serious crime, such as for

example murder, needs punishment in correspondence with it. Basically, the idea of retributive justice is to fit the punishment to the crime, as it will return the moral balance to society and will re-establish the common limits of morality in society. Some of the jurisprudential theorists believe that only the death penalty can return punishment corresponding to the crime, as it is not possible to punish the crime with a lesser punishment (Gorecki, 1987). This line of thought has justified the concern to maintain the death penalty since the earliest times; however, it is likely to be subject to cultural influences with regard to what is fair or unfair, and what we must recover in terms of making peace to the victim (Gorecki, 1987).

Similarly, proponents of capital punishment contend that it is a requisite and justifiable role of preemption. To supporters, the death penalty is the only punishment that necessarily makes the worst criminals incapable of repeating their ultimate crimes, as justice systems permanently remove these persons deemed irredeemably harmful from society. The purported role of capital punishment of preemption follows from its incapacity of recidivism premised on the perspective of protecting society. Proponents of the death penalty also claim its supposed prevention of future killings poses a necessity in cases where the individual offender threatens public safety; pre-emptively eliminate prospective violence, they argue, is the public good wherein public safety requires, claiming self-study demonstrates diminished threat is sought in personal and societal safety requirements (Sunstein & Vermeule, 2014). Such pre-emptive reasoning appears predicated upon a consequentialist mind set, suggesting that there are few other, worse yet justified manners for justice systems to protect and own public safety and order than permanently incapacitation of threatening offenders (Sunstein & Vermeule, 2014).

Moreover, supporters of the death penalty often argue that its implementation provides a certain closure or sense of justice to the families of victims, helping them to move on after such a hard loss. According to this approach, seeing that the one who commits the crime receives the most severe punishment for his actions not only recognizes the gravity of the act and restores some sense of justice but also helps the victims' families deal with the pain they have to live with. Supporters of this position suggest that knowing that justice was served can help families of victims cope with the trauma of violent crime and deal with the feelings of helplessness or indignation they now face. Additionally, for some, the notion of finality that the death penalty brings symbolically enforces the perception of the offender's crime by society that condemns it and enforces its values by expressing joint discontent. While it remains controversial whether there is an emotional effect on the victims' families, activists use this argument as a central point to defend the death penalty from claims against it.

Moral and Ethical Considerations

Whether state-administered executions can be justified raises ethical issues premised on competing values from religious beliefs, philosophical arguments, and questions of justice. Certain religious beliefs perceive the crime of murder as unacceptable in all circumstances; they counter the death penalty to be no exception because human life is given from God. Other religions, on the other hand, accept it under exceptional circumstances, especially when upholding justice in the form of social order or societal retribution. While some philosophers adopt utilitarianism predicated on either the higher goods in capital punishment, or the sanctity of human life, deontological theorists oppose the execution imposed by the state as a necessity on a higher moral ground, or violation of categorical human right to life (Sunstein & Vermeule, 2014). An argument in favor states that, if certain and irrefutable evidence shows that the death penalty prevents the crime of murder, a real commitment to the sanctity of human life would result in the return of capital punishment not as an option but as a duty, even while fully aware of the understood dangers such as false accusations and discrimination (Sunstein & Vermeule, 2014). Certain theorists also deliberately interrogate the ideas of acts and omissions, and question whether the distinctions between the two actions which objectors base their arguments on, are sufficiently defined popular belief (Sunstein & Vermeule, 2014).

The argument of some proponents of the death penalty is that it is necessary for maintaining the moral order as justice for the worst crimes should also be severe. In this regard, the most serious crimes are breaking the moral code of a society and require collective recognition and confrontation of the threats to common ethical and law boundaries. Hence, upholding the capital punishment serves to the moral order as the justice institutions demonstrate to the society that it also cannot tolerate certain actions and the breach of key boundaries requires commemorating response (Gorecki, 1987). The rationale here is that restoring balance and threatening with the death punishment also shows that it is impossible not to adhere to the shared values and this is the common approach for bringing justice not only for a particular victim but for the entire ethical order supporting the society (Gorecki, 1987).

Oppositely, the arguments against capital punishment are diverse, and they may consider the execution of capital punishment by the state unfairly in the context of protection of human rights. According to the opponents of capital punishment, there is a moral concern when previously subjects may unjustly put others to death via implications of irreversible punishment by death due to flaws and bias in law and the judicial system. Also, human rights treaties and international standards, such as in the Universal Declaration of Human Rights (UDHR), justify the right to live for everyone and secure right to not be subjected to cruel punishment or inhuman treatment or punishment, which secure the wrongfulness of justifications of punishment leading to death. Besides, there are opponents of capital punishment who assert that there is a

global expansion of commitment which focuses on justice systems valuing judicial procedure and human dignity (Robinson & Moody, 2019). In this line of arguments, those opponents attach importance on emphasizing healing and rehabilitative justice systems rather than irreversible punishment, which aligns with the nature of the justice system dominant in valuing the universality of human rights (Robinson & Moody, 2019).

Furthermore, whether the death penalty undermines the intrinsic value of human life represents one of the most philosophically charged controversies at the heart of justice systems. Opponents of the death penalty argue that the state's willingness to actively take life sends a dangerous message of its own in some contexts, encouraging a mindset in which the use of lethal force becomes an accepted reaction to perceived or actual grievances. Proponents of the death penalty argue that its use in the most extreme circumstances communicates a profound respect for the lives of the victims, morally obligating society to deprive the perpetrators of their own in response to the breach of that principle. They argue that reinforcing a sense of the consequences of extreme violations communicates respect for life and personal safety, rather than a lack of respect for its value (Sunstein & Vermeule, 2014). Thus, the controversy arises around whether justice is most fundamentally promoted by an unyielding acknowledgment of the value of life in every circumstance, or by the acknowledgment that in particular examples of the betrayal of the social contract, the violation demands a return of that value (Sunstein & Vermeule, 2014).

Arguments Against Capital Punishment

Noteworthy, among the other main objections to capital punishment are its potential for wrongful convictions, ineffective deterrent value, and proven discriminatory effect. Opponents argue that judicial errors arising from inaccurate evidence, lack of competent defense, or procedural error can lead to capital punishment for a person who is not guilty of the crime. In-depth scholarly discussions focusing on the deterrent value of capital punishment have not shown any significant evidence that it serves as a greater deterrent to crime, as compared to other punishments, with many studies not being able to conclusively establish that crimes of a serious nature are significantly lowered as a result (Robinson & Moody, 2019). Allegations have also been made that capital punishment is disproportionately imposed along race, social class, or other similar manifestations, thus demonstrating that bias or discrimination continues to exist in justice systems. As an entirety, the remaining major objections can be linked to the perceived lack of equity and validity of the capital punishment method of dealing with offenders, and this should continue to raise study interests regarding its impact on modern-day societies (Robinson & Moody, 2019)

Though, one of the most addressed problems by the opponents of capital punishment is the probability of mistakes in the death penalty, along with the nature of such mistakes as the most severe manifestation of human fallibility. The death penalty is presumed to target the most dangerous criminals and therefore cannot be assessed in the light of the same baseline assumption underpinning lethal and non-lethal punishments alike – ignore material error. It is estimated and demonstrated that justice systems are not immune to failures, and their failure within the context of this issue can be reliably exemplified by the wrongful capital convictions (Robinson & Moody, 2019). As can be found on the National Registry of Exonerations, newly performed testing in some instances eliminated evidence against convicted death row inmates. At the same time, failure of the justice system as a reaction to wrongful death penalty is the most severe cry for justice, but this cry requires further assessment in terms of its potential for piecing death penalty together within the justice system aspiring to procedural perfection (Robinson & Moody, 2019).

In addition, the rising body of scientific papers also challenges the assertions that the death penalty serves as a potentially effective crime prevention mechanism to fulfill the key arguments of its proponents. The comparative studies of areas with the death sentence and without it so far do not demonstrate any significant difference in the prevalence of cardinal crimes, which makes the supposedly deterrent impact unconfirmed by the distinctive empirical tendencies. It is also posited that crime is conditioned by multiple factors like criminals' behavior, social arrangement, and law implementation so that the potential to reduce its growth could be compromised even by the policy measures, including the death penalty. Moreover, studies provided evidence of the cases when the abolition or moratorium of the death penalty did not ensure a statistically perceivable increase in violent crimes (Gorecki, 1987). As a result, the discussed literature patterns illustrate the profound necessity for the evidence-based policies in the justice administration to confirm the facts rather than presuming the claimed preventive role of the death penalty in the contemporary criminal justice practices (Gorecki, 1987).

Furthermore, claims of the presence of racial, socio-economic, and geographic bias in the context of sentencing of capital punishments have led to wide criticism of the manner in which capital punishment is practiced by various justice systems. Numerous studies have been conducted to analyze the patterns of the use of the death penalty in the US, demonstrating that there is a bias in the practice of capital punishment against the defendants that belong to underrepresented racial groups or the socio-economic class. The demonstrated bias in capital sentencing practice is influenced by the unequal representation of the offender from the side of the defendant and the unjust policies and discretion exercised by the prosecutors. Moreover, the inconsistency in the geographic capital sentencing practice has also been recorded, where some of the jurisdictions

have recorded disproportionately higher capital punishment than others, regardless of the crime severity, and crime figures. Such practices result in claiming that capital punishment fails to enjoy the impartiality of nature in its working, as it is not limited to the response to criminal behavior, but the effect of the system. With the data mentioned above, many experts believe that the practice of capital punishment can lead to the systemic discrimination and inequality in its practicing and results, violating the fundamentals of law present in both domestic and international (Robinson & Moody, 2019)

The deontological stance suggests that capital punishment could be alternated with a humane and just sentence of life without parole. The sentence of life without parole, they claim, both promotes justice and secures society's right not to be harmed in return, all without achieving irreversible outcomes whose impossibility is such that its possibility demands efforts for redress. Life imprisoning criminals who committed crimes against humanity is a method to protect society. Besides, the death row opponents point out that life imprisonment enables a person to make redress when it doesn't happen because the death penalty prevents redress. This argument can be interpreted as an inclination to believe that life imprisonment is more acceptable to the moral criteria, there is no threat of endorsing state killing. However, the main goal of life imprisonment is still to promote the protection of human rights (Gorecki, 1987). In legal systems characterized by reliability and the desire to minimize the possibility of judicial error, non-lethal alternatives are ever increasingly entitled to be used rather than death, a penalty whose implementation is subject to variability and arbitrariness. By promoting life imprisonment without the possibility of parole as a suitable punishment and a means of protecting society, proponents of this line of argument claim that it solves several ethical and practical issues concerning the death penalties continued use (Gorecki, 1987).

Contemporary Trends and Reforms

Overall, global trends provide evidence for a noteworthy shift toward the trend of the limitation or total abandonment of the death penalty recently, backed by legislative efforts and changing public perceptions. Many of the states, especially in Europe and Latin America, achieved the complete abolition of the death penalty in law or in practice, with references to their commitment to universal human rights treaties and growing public disillusionment with the justice and legality of capital punishment. A few states, including specific regions in Asia and the Middle East, still promote and actively apply the death penalty as an effective measure for the prevention of serious crimes or as an instrument for establishing the rule of law (Robinson & Moody, 2019). At the same time, these states have to deal with increasing pressure from international organizations and activists, who call for the rights of the accused and their compliance with global legal

standards and national legal norms (Robinson & Moody, 2019). In this regard, a complex formula of public perceptions, legal advocacy, and growing awareness of the global issues brought significant effects in the modern world's context, characterized by positive steps toward the ongoing decline of capital punishment's prevalence worldwide (Robinson & Moody, 2019).

In addition, the emergence of highly developed forensic technologies, with DNA analysis being the most important of them, had also a tremendous impact on arguments about the legitimacy of the death penalty. This technique has made it possible to revisit many criminal cases, some of which demonstrated the innocence of people sentenced to death. Public realization of the prospect of irrevocable judicial error due to the spread of a new technology, made society demand more prudence or even a total ban on the use of the death penalty. Publicizing cases of error has strengthened arguments against the concept of the death penalty as a simple exchange of one life for another, emphasizing its essential risks (Sunstein & Vermeule, 2014). The use of scientific evidence makes it possible to question the idea of obviousness in protecting the death penalty and framing it as a fair punishment, especially considering that if it is a mistake, punishment cannot be remedied (Sunstein & Vermeule, 2014).

In summary, it can be noted that the future of the death penalty as an element of criminal justice will increasingly be influenced by legislative changes, ethical controversies and growing public scrutiny. It is likely that the continued controversies regarding the justice and effectiveness of the death penalty as an instrument of state will ensure that it remains a politically divisive issue, as well as one that divides citizens. Legal changes in the practice of the death penalty in countries across the globe indicate that the trend is increasingly inclined towards supporting the abolition or extensive limitation of the death penalty (Gorecki, 1987). Furthermore, forensic advances regarding evidence accuracy and human life rights, provide weight to ethical arguments questioning existence legality and the justice of capital punishment. Ultimately, the future of the death penalty as a justice instrument, will increasingly be reliant on its perceived justification.

Conclusion

Arguments both in favor of and against the legitimacy of the death penalty in justice systems involve a complex mix of legal, moral, and pragmatic considerations. Supporters see it as a necessary tool for deterrence, restorative justice, and societal protection. In contrast, opponents raise concerns about wrongful convictions, systemic bias, and its incompatibility with fundamental human rights. Over time, the death penalty has evolved in relation to historical contexts, social perceptions, and legal frameworks, making it an elusive topic for consensus. Changes in the death penalty laws have been

shaped by efforts to reform its application, technological advancements, and increased awareness of issues related to procedural justice. Despite these influences, the death penalty remains a highly controversial and unstable topic in international justice systems. Its legitimacy continues to be actively debated worldwide, reflecting shifting attitudes towards justice, human rights, and the law.

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