

Student's Name

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Course

Date

## Capital Punishment

Capital punishment is a legal procedure through which the state puts an individual to death for a crime. Capital offenses are the crimes that are punished by the death penalty. The order that an individual be punished through capital punishment is called death sentence whereas execution is the actual carrying out of the death sentence.<sup>1</sup> Capital punishment is an issue that is very controversial in different states, and various positions are given depending on each country's political and cultural ideologies. The grounds for maintaining capital punishment are as discussed below.

### **Reasons of Capital Punishment**

Retribution. This point of view states that real justice necessitates an individual going through suffering for their wrongdoing, and that this suffering should be proportional to the crime. Every criminal ought to get what their offense deserves and, therefore, in the case of murder, the crime justifies death of the offender. In the Dhananjay Chatterjee case, Justices A.S Anand and N.P Singh asserted that the measure of penalty should be dependent on the atrocity of the offense, the criminal's behavior and the state of the victim that is weak and unprotected. According to them, justice requires the courts' imposition of punishment that befits the crime for the court to show a reflection of public detestation of the offence. Therefore, the courts make a response to the society's call for justice in relation to the criminals.

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<sup>1</sup> Kronenwetter, Michael. *Capital Punishment: A Reference Handbook*. ABC-CLIO, 2001: 2. Print.

Deterrence. Another reason given for the execution of criminals is deterrence, meaning that if convicted murderers are executed, it will prevent other would-be murderers from killing people.<sup>2</sup> Executions, particularly when they are agonizing, humiliating and done in public may bring a sense of horror that would restrain others from the temptation of committing similar offenses.<sup>3</sup> Failing to execute murderers is in a way allowing the killing of innocent people. Even though execution may only deter a single murder in a year, it is worth it. It is important to spare the lives of even a few potential victims through deterrence of their murderers rather than preserve the lives of the offenders (even if their execution would not deter others).<sup>4</sup> Threatening punishment is used to deter crime and as justice for the offenses that were not deterred.<sup>5</sup>

Rehabilitation. Capital punishment does not result in the rehabilitation of the convicted person and does not allow them to go back to society. However, there are many cases of individuals condemned to death taking that chance to go through deep spiritual rehabilitation, repent and express their remorse before execution. According to Thomas Aquinas, when one accepts the death penalty, their evil deeds are expiated and therefore, they escape being punished in the other life.<sup>6</sup>

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<sup>2</sup> Heilbrun, Alfred, B., Jr. *The Case for Capital Punishment*. Hamilton Books, 2012: 99. Print.

<sup>3</sup> Melusky, Joseph A., and Keith Alan Pesto. *Capital Punishment*. Santa Barbara: ABC-CLIO, 2011: 118. Print.

<sup>4</sup> Pojman, Louis P. *The Death Penalty: For and Against*. Lanham: Rowman & Littlefield Publishers, 2000:39. Print.

<sup>5</sup>Zimring, Franklin E. and Gordon Hawkins. *Capital Punishment and the American Agenda*. Cambridge: CUP Archive, 1989: 170. Print.

<sup>6</sup> Pojman.

Prevention of re-offending. It is obvious that the executed persons cannot commit crimes any more. It is commonly believed that life imprisonment of a murderer without parole is not an adequate way of protecting the society. This is because although the convicted person no longer poses danger to the public, they remain a threat to the other inmates and prison staff. Prison personnel and prisoners in countries where death penalty is not allowed suffer a higher rate of homicide and assault. Therefore, through execution, this threat is removed.

Closure and vindication. It is often debated that through death penalty, the families of the victims are given closure.

Incentive to assist police. In the majority of countries, there is the application of plea bargaining. This is the process by which an offender gets a lesser punishment in exchange for helping the police. Where death penalty is the possible sentence, the offender may have the strongest incentive to attempt having their sentence reduced to even life imprisonment without the chance of parole. Therefore, it is a useful tool to the police.

### **Is Capital Punishment Justified?**

Capital punishment is not justified. Firstly, it is not the most effective way of deterring crime. Deterrence is most operative when it takes place soon after the offence. The deterrence in death penalty becomes less effective with distance in certainty or time created between the punishment and the crime by the legal processes. This may be illustrated with a case where a child learns not to touch fire as the instant pain is the consequence. Also, executions are carried out privately through relatively painless methods such as injections and thus the public do not experience any horror associated with execution. In some cases, because of mental illness, the executed may not be in a position of being deterred. Also, some capital offenses are carried out in such emotional state that the offender cannot think of the possible consequences.

The reason of re-offending prevention through the use of capital punishment is not enough justification for ending one's life. There are other means for ensuring that criminals do not re-offend. This includes life imprisonment with no parole prospects.

Capital punishment is more of vengeance and retribution and is thus a morally unconvincing concept.<sup>7</sup> The anticipatory agony that the offender goes through makes the punishment more severe than depriving them of their life as they may be kept on death row for many years.<sup>8</sup>

The closure and vindication for the families of the victims is also insufficient justification to execute someone. The reaction of every family is different. Some families may not be of the view that closure is provided by another death.

The rationalization of capital punishment being a motivation to assist the police is weak. It may be compared with the perception that torture is justifiable as it may be a useful device to the police.

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<sup>7</sup> Bedau, Hugo Adam and Paul. G. Cassell. *Debating the Death Penalty: Should America Have Capital Punishment? The Experts on Both Sides Make Their Case*. New York: Oxford University Press, 2005: 10. Print.

<sup>8</sup> Melusky and Pesto, 130.

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