

THE DEATH PENALTY

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I find very interesting to study what people thinks, is good to analyze their thinking, but sometimes is very sad to see that those thoughts are shared by many and that when they're a reality they end up hurting people. In the case of Wesley Lowe, he dedicates a webpage to victims of murders stating that talking about cruelty is talking about the innocent who dies everyday in the hands of bloody killers and agreeing with the death penalty in the United States (2006). Many others, including myself, can probe this thinking wrong and sustain that the United States should no longer execute criminals because the death penalty is a cruel and unusual punishment that is irrevocable and does not deter crime.

All the execution methods are horrifying, without even mentioning how the person that is going to be executed would be feeling while the time to die gets closer and closer. The fact that the capital punishment prevails in the name of justice does not mitigate the suffering or the humiliation of the human race (Montalvo, 2006).

Capital punishment has no place in a civilized society and denies the offender the benefit of the new technology that can, in later evidence prove his or her innocence that seems to be a new claim. Murder in any form means lack of respect for human life, making it legal or part of the system still doesn't make it right (Montalvo, 2006).

Lowe (2006) also completes this comments saying that there is no evidence of the United States system executing an innocent man in the last hundred years (2006), but regardless, the death penalty provides an irrevocable sentence.

Once an inmate is executed, nothing can be done if a mistake was made. If an innocent person is executed there is nothing we can do to bring him or her back to life. There is a lot of

evidence showing that many mistakes been made along the years and that one innocent every eight executed offenders are innocent (Michigan State University, 2004).

A study from the Columbia University Law School says that two thirds of all capital trials have serious errors. Later in the 1990's, the new DNA testing exonerated many death row inmates, offenders that with out this technology, will had been sentence with the death penalty. By substituting a death penalty sentence with life without parole, our society won't be at risk and we won't be putting anyone on the death row by mistake (Michigan State University, 2004).

Furthermore, Lowe (2006) states that death penalty helps to prevent future crime and that murderers must be killed to prevent them from murdering again. Many scientific studies have failed to find evidence that the death penalty deters crime in a more effective way than other punishments (Hood, 2002).

The most recent survey conducted for the United Nations in 1988 shows that can not be actually proven that the capital punishment deters more murders than life in prison. Recent crime statistics from countries that abolished the death penalty show that its abolition didn't have any adverse effects in society. Canada, for example, had a 3.09 per 100,000 homicide rate before the capital punishment's abolition in 1975, decreasing to 2.41 in 1980, and declined to 1.73 in 2003 (Hood, 2002).

Robert Macy, District Attorney of Oklahoma City, also supporting the capital punishment, describes society's need for retribution in one of his cases in 1991, where a young mother had to watch her baby being mutilated and killed, saying that the killer should have no right to be in prison with three meals a day, clean sheets, cable TV, family visits and endless appeals; he concludes his sentence saying that "For justice to prevail, some killers just need to die" (Michigan State University, 2004).

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Now, let's think about this for a minute, our society should be led by higher principles, such as the respect for life; taking someone else's life is not going to get us back on time and get the victim(s) life back, taking someone else's life leads us nowhere.

Another fact to keep in mind is that, here in the U.S., only a small percentage of the worst offenders convicted for murder are actually executed, and are normally the ones that have fewer or no resources to defend themselves (Michigan State University, 2004).

Many defendants facing death penalty can not even afford their own attorney and they depend on the lawyer's assigned by the states which are normally overworked, underpaid and even lack of experience (Michigan State University, 2004).

Also, supporting the facts we can find very important decisions from the USSCt, which, even if the United States Supreme Court has ruled that the death penalty doesn't violate the Constitution's Eighth Amendment as a cruel and unusual punishment, it put its own limitations to it along the years.

In the case, *Coker v. Georgia* (1977) the Supreme Court held that the death penalty is a gross disproportionate punishment. Recently, in *Atkins v. Virginia* (2002) the Supreme Court used the same guideline on executions of mentally retarded sustaining that they're cruel and unusual, so forth, they're prohibited by the Eighth Amendment. In *Roper v. Simmons* (2005), the Supreme Court invalidated the death penalty for all juvenile offenders (Cornell Law School, 2006).

There have been mistakes while executing the death penalty in the United States and along the world from early ages, mistakes that are irreversible. In 1907 in Nebraska, Mead Shumway was convicted of the first-degree murder of his employer's wife on circumstantial evidence and

sentenced to death. In 1910, the victim's husband confessed on his deathbed that he had murdered his wife (Radelet, Bedau & Putnam, 1992).

It can also be clearly seen that the death penalty is a violation to the human rights, not only the rights of the persons that are being executed but also their families.

The capital punishment constitutes a violation of two very important human rights; the right to the life and the right to not be under cruel or degrading pains. Both of these rights are recognized in the Universal Declaration of Human rights and also in regional and international laws and constitutions (Amnesty international, 1998).

The cruelty of the death penalty and its torture are evident. An execution is a physical and mental aggression against a defenseless person, a torture authorized by their own governmental authorities. The cruelty of the death penalty is not only in the execution but also in the time that the inmate is waiting to be executed, thinking constantly about his death, which by the way is allow by the state (Amnesty International, 1998).

In *Glass v. Louisiana* (1985), Justice William Brennan said that electrocution equal to "disemboweling while alive, drawing and quartering, public dissection, burning alive at the stake, crucifixion, and breaking at the wheel." (Gregory, 1995).

As we mentioned previously, we also see that the cruelty of the death penalty is not only committed against the condemned person but also reaches his family, and even the employees of the prison in charge of the execution, if we want to go a little further. Information from all over the world shows how this function can mentally affect judges, public prosecutors and other employees of the system when they find themselves facing the dilemma of administering the death penalty (Amnesty International, 1998).

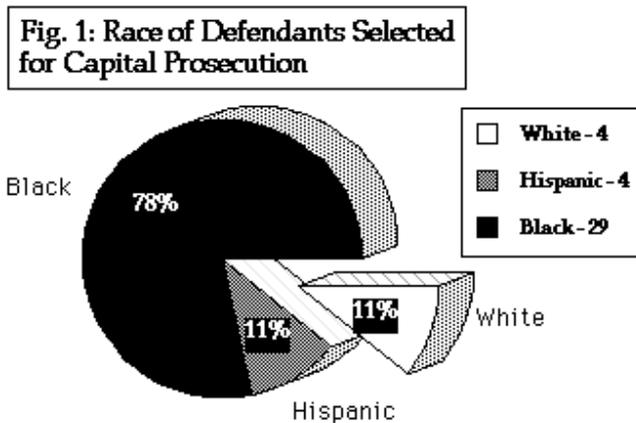
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Another thing to keep in mind is that many prisoners facing the death penalty don't have the resources to pay for a good and experienced lawyer and they end up being represented by lawyers without experience.

It is very possible that the defendant don't understand why he is going to be executed since many of these people lack education and don't even understand the legal terms used in the courts. Many other times the language barriers become an issue as well because the services of translation of judicial documents are inadequate (Amnesty International, 1998).

The previously discussed paragraph brings up another issue. Frequently, the death penalty is applied to members of underprivileged social groups, people with low income, none or almost non-existent education, and in majority blacks and Latinos.

According to a report of the subcommittee on civil and constitutional rights, the numbers show that racial minorities condemned to the death penalty are far beyond in proportion to the general population and also to the population of criminal offenders. Analysis of prosecutions reveals that 89% of the defendants prosecuted for the capital punishment are African-American or Mexican-American (1994).



Throughout the American history, the death penalty felt under big racial disparities. Since 1930 nearly 90% of those executed for rape were African-Americans. Today, about 50% of the sentenced to the death row are from minority populations (DPIC, 2006).

Since 1976, 202 black defendants been executed for the murder of a white victim, while only 12 whites been executed for the murder of a black victim. Furthermore, death sentence is far more likely where a white person is murdered than where a black person is murdered (Michigan State University, 2004).

In 1987, in *McClesky v. Kemp*, Justice Powell held that the capital punishment despite unequivocal evidence that black murderers of white victims are four times more likely to be executed than any other perpetrators (Gregorio, 1995).

The *Sourcebook of Criminal Justice Statistics* shows 41.7% of the population sentenced to death penalty to be black and that 38.7% of the prisoners executed since 1977 been black. Furthermore, we can see a little deeper into this reality in Table 1.

TABLE 1
MURDERS AND NONNEGLIGENT MANSLAUGHTERS KNOWN TO POLICE
UNITED STATES, 1995

Race of Victim	Race of Offender		Total
	White	Black	
White	4,124	699	4,823
Black	281	4,422	4,703
Total	4,405	5,121	

SOURCE: SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS (1996).

The truth is that the death penalty don't serve any of the principles of justice, neither serves proportionality, distribution, and obviously doesn't either serves rehabilitation (Gregory, 1995).

In 1972, in *Furman v. Georgia*, the United States Supreme Court held that that the death penalty was arbitrary and capricious. In *Herrera v. Collins* (1993), Justice Blackmun stated in his

dissenting opinion that “The execution of a person who can show that he is innocent comes perilously close to simple murder”, but unfortunately, the Supreme Court of the United States never held that the death penalty is unconstitutional per se (Gregorio, 1995).

Other powerful argument against the death penalty is its cost. The death penalty’s cost is enormous when compared to the cost of the incarceration for life without parole, It cost over \$3 million to execute someone, while life with out parole is only one-sixth of this fraction (Gregorio, 1995).

In 1989, in the state of New York, the Department of Corrections said with the cost of the death penalty of a five year period, they could hire an extra of 250 police officers and build prison space for 6,000 more inmates (Gregorio, 1995).

On top of this, the courts spend about half of its time reviewing death penalty appeals, which incurs in extremely more expensive legal costs, a big budget that could be use in other services, such as hiring more police officers to help to deter crime instead (Gregorio).

The core of the discussion is the amount of police officer and other crime fighting resources that could be put at the use of the community to prevent crime, if instead of sending people to the death row our system uses incarceration other alternatives such as incarceration without parole (Gregorio, 1995).

We can clearly say that the death penalty is a failure and a constitutional disgrace. While the use of the death penalty is being discontinue in many countries around the world, here in the United States we keep sending people to the death row, same as many other countries with totalitarian regimes such as China, Iran and Iraq, those same countries that we fight today in war because of the abuse of human rights and terrorism, those same countries that we argue to apply disciplinary sanctions while we debate in the United Nations.

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Death penalty, also called capital punishment, is when a government or state executes (kills) someone, usually but not always because they have committed a serious crime. A crime that can be punished with the death penalty is called a capital crime or a capital offense. Executions in most countries have become rarer in recent centuries. The death penalty is a disputed and controversial topic. * The death penalty is the court-ordered execution of a convicted criminal.[1] [2]. * The early American colonies had varying death penalty laws, which were largely influenced by English law. Treason, murder, rape, grand robbery, and some property crimes were generally punishable by death.[3] [4]. * The first recorded legal execution under a death penalty in the American colonies took place in Jamestown in 1608 when a colonist was executed for spying for the Spanish.[5] [6]. The death penalty is not a per se violation of the Eighth Amendment's ban on cruel and unusual punishment as it is a proportional punishment for some crimes, particularly murder. A state cannot apply the death penalty, however, for the rape of an adult woman because it violates the proportionality requirement (*Coker v. Georgia*). In addition, the penalty is categorically unavailable for cases of child rape in which the victim lives (*Kennedy v. Louisiana*). Allowable methods of execution. England outlawed the death penalty in 1965. Death penalty is also called capital punishment. Jephthah Big received capital punishment for sending a threatening letter back in 1729. In Ancient Greece, capital punishment applied to crimes of murder, rape, arson, and treason. The top countries practicing death penalties are China, Iran, Saudi Arabia, Iraq, Pakistan, Egypt, Somalia, the USA, Jordan, and Singapore. George Stinney Jr. died as the youngest person in modern history to be executed by an electric chair.