

**The Bill Blackwood
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The Death Penalty: Is it a Deterrent?

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ABSTRACT

It is hypothesized that capital punishment is not a deterrent to crime. However, if the sentence is carried out by the lawful orders of a judge and/or jury, then by this act it is a deterrent. It prevents certain criminals of our society from performing further criminal activity. States that still have the death penalty and the automatic appeals have many criminals awaiting the final deterrent while exhausting the appeals process that each person is due. Some criminals have hope of their particular state overturn the death penalty and convert their remaining sentence to "Life without Parole." In those states that still have the death penalty, there are still murders, still capital crimes being committed. It is the purpose of this author to show that capital punishment is only a true deterrent to the single individual unfortunate enough to be apprehended for his crime and not for the general criminal element of society.

INTRODUCTION

The death penalty, or capital punishment, has been a popular and much debated topic for the last three centuries. Does capital punishment deter crime? From the time Jesus was crucified, which is one of the most well known executions ever carried out, to the more recent Oklahoma City Bomber, to Hilton Crawford, there have been two very distinctive groups: those who are in favor of capital punishment, and those who are against.

Those in favor of the death penalty seem to be more of a conservative political opinion. This seems to be proven by the fact that more states within the south are actively carrying out more executions. Texas is leading the way. According to the Bureau of Justice (Bureau of Justice Statistics Bulletin, 2003), in 2002, 71 persons were executed, 33 of which were in Texas.

Those against capital punishment have had in recent years a louder and resounding voice. And to even go so far as to debate the southern proponents as to use biblical references such as Leviticus 19:10, "To me belongeth vengeance" (Bible, King James Version). Of this group, Amnesty International is one of the most active groups. It has staged numerous protests and vigils.

Nicholas Jenkins has said that lethal injection is cruel and unusual punishment (Jenkins, 1994). The arguments, for and against capital punishment, range from morale issues to the overall effectiveness of this final type of punishment. The moral position is very passionate, sometimes biblical in nature and not the focus of this paper.

John Stewart Mill (Mill, 1868), one of the most influential nineteenth century liberals gave a speech before Parliament on April 21, 1868, regarding capital punishment. He

was in total opposition to a bill that would ban capital punishment. Mr. Mill stated: “It appears to me that to deprive the criminal of the life of which he has proved himself to be unworthy, solemnly to blot him out from the fellowship of mankind and from the catalogue of the living, is the most appropriate as it is certainly the most impressive, mode in which society can attach to so great a crime the penal consequences which for the security of life it is indispensable to annex to it.”

REVIEW OF THE LITERATURE

Up until June of this year when New York ruled the death penalty unconstitutional, there were 38 states still using the death penalty. Of the 37 states that have the death penalty, 35 have an automatic appeals process in place (Capital Punishment, 1992). The length of time spent on appeals could be a possible factor in the increase of capital crimes. It may serve to give those convicted the hope of either their sentence being overturned, or pardoned altogether. Another factor may be that at the time of any given crime, the perpetrator does not consider the results of their actions at all.

Texas Death Row was located in the east building of Huntsville from 1928 to 1952. The “Row” was moved to the Ellis Unit in 1965 where it remained until 1999. At that time, death row was moved to the Polunsky Unit where it has remained to this day. The women on death row of Texas are housed at the Mountain View Unit.

The state of Texas performed its last execution by electrocution in 1964 at which time the State ruled that this was considered cruel and unusual. Then in 1977, Texas adopted the method of lethal injection as a means of execution which still continues to this day (Texas Department of Criminal Justice [TDCJ], 2004). Texas is the leading state

in capital punishment with a cumulative total of 330 executions, 17 of which were carried out in 2004 (Death Penalty Information Center, 2004).

There is no doubt punishment can prevent some crime through intimidation of the offender, or those who are witness to the consequences of criminal. Deterrence is of course implied in criminal codes, is made visible through patrols and is made painfully aware to the criminal when convicted and sentenced. There are opinions that the more severe the sentence, effectiveness of just the threat of consequence will aid in the prevention of crime (Conrad & Haag, 1983).

Haag entertains the opinion that the more severe the sentence, the more effective the threat will be in the prevention of crime. Because the death penalty seems to him and to many others an incomparably more severe sentence than any term of imprisonment, even imprisonment for life, he holds that for the crime of murder it should be resumed in the general administration of justice.

The evidence will never be certain about the effectiveness of deterrence. For the present argument, we can disregard the deterrence of the offender who is being punished; presumably, if he is sentenced to death, he will never offend again. But we have no way of knowing how much crime is prevented by deterring potential criminals through the administration of the various punishments that governments have devised. We cannot even verify or falsify Professor van den Haag's belief that the more severe the punishment, the more crime will be deterred. That does not prevent moral and legal philosophers, social scientists, and plain men on the street from thinking about this question, and they have thought about it for centuries.

Depending upon which side of the argument one stands, there are always going to be opinions. Regardless of which side of the argument one stands, there are always going to be victims. In January of 1966, relatives of the deceased victims were allowed to witness executions. To many of the families, this act of watching the person that committed the offense against the family member is an act of closure. Many of these “secondary” victims are left with an empty void that is not, and cannot, be filled by watching the accused die. However, just by knowing that no other families or victims will suffer at the hand of the accused, there is some relief.

The opponents of the death penalty almost always stage a candle light vigil. Many even contribute monies to the different organizations such as Amnesty International. These groups have been instrumental in the increase of longevity on death row for the inmates. Time on “The Row” has increased from an average of 10 years and 8 months, to 12-18 years. Opponents of the death penalty often state that capital cases seeking the death penalty are expensive; more so that cases involving those seeking life without parole. This may be somewhat true at the onset. However, if the convicted is put to death after 12-18 years, the cost will be comparable, in addition to any crimes that may be committed by the accused if out on parole.

METHODOLOGY

In 2003, 25 inmates from the Montgomery County jail were contacted and asked to answer a ten item questionnaire (see Appendix A). Convictions of this group ranged from misdemeanors to felonies. Of the 25 inmates asked to participate, only 19 agreed to answer questions, and all requested to remain anonymous.

These questions were asked to inmates with no consideration of religion, race or crime. These inmates were awaiting their time in a state facility awaiting transfer to Texas Department of Criminal Justice. After the simple survey was gathered, several inmates in the cell wanted to expand on Question #2. When asked why, several inmates in the group spoke up saying they have not, will not, nor would they ever commit a capital offense. The group also wanted to expand on Question #8. Several inmates stated that there were some crimes that even the most harden criminals detest such as rape of children, or abuse to the mentally challenged. Spurred on by this conversation, several more inmates even went so far as to say that drugs and alcohol were what causes some individuals to “go over the edge.”

FINDINGS

Although the convictions did not carry the penalty of death, the majority of respondents (89%) have thought about the possibility of receiving the death penalty. It is interesting to note that while 21% stated that the threat of a death penalty sentence was not a deterrent to committing crimes, 63% stated that life without parole would keep them from criminal activity.

It is interesting to note that the majority would rather have a jury trial to decide their fate (79%) rather than plead for life without parole (21%). In addition, it was almost an even split of those that felt the state should eliminate the death penalty (37%), those that felt the death penalty should remain (27%) and those that had no opinion (32%). Not surprising is the fact that all agreed with the automatic appeal process and the increase of appeals.

Through this author's review of books on criminal questioning, the inmates questioned were the most vivid and colorful. This author watched as the inmates that did not participate in the survey were drawn into a passionate discussion of the pros and cons of the death penalty. It appears that even incarcerated individuals are just as passionate as those outside the walls of a prison protesting an execution.

CONCLUSION

It's clear that this will be a much debated issue. The arguments will always be passionate and emotionally charged. It is learned that whether a society has capital punishment or not there are those individuals that will not care about the consequences of their actions. Capital punishment is seen as a fitting and just punishment for criminals that commit specific crimes; by the courts and many advocates of the death penalty. There is one thing that is certain: recipients of capital punishment will not commit any further crimes in the society in which they were once a part.

Depending upon which side of the argument one stands, there are always going to be opinions. Regardless of which side of the argument one stands, there are always going to be victims. In January of 1996, relatives of the deceased victims were allowed to witness executions. To many of the families, this act of watching the person that committed the offense against the family member is an act of closure. Many of these "secondary" victims are left with an empty void that is not and cannot be filled by watching the accused die. However, just by knowing that no other families or victims will suffer at the hand of the accused, there is some relief.

As long as we have a society governed by laws, we will always have crime. If there is no temptation to commit a crime, it would be pointless to have a law that prohibits criminal activity. Some people will commit crimes no matter how harsh the punishment. The lure of immediate gratification or monetary goods, or the feeling of utter misery is greater than the thought of any type punishment. The ultimate problem for society is how to control crime and not the total elimination of it (Conrad & Haag, 1983).

So does the death penalty deter crime? Not in the general population. Only when the final disposition is completed is a particular criminal no longer committing crime. This only proves that the idea of punishment does not deter the criminal element, but only by being held accountable and being punished by the means dictated by society.

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APPENDIX A

Questionnaire

Please answer each question by checking either Yes or No.

Name (optional)

- | | | | |
|-----|----|-----|--|
| Yes | No | 1. | Have you ever thought about receiving a death penalty? |
| Yes | No | 2. | Does the death penalty in Texas make you more afraid of doing crime? |
| Yes | No | 3. | Do you think the State should do away with the death penalty? |
| Yes | No | 4. | Would you rather see the courts issue life without parole versus the death penalty? |
| Yes | No | 5. | Would a life without parole sentence keep you from criminal activity? |
| Yes | No | 6. | If you were accused of a capital offense, would you make a deal for a life sentence or take your chances at trial? |
| Yes | No | 7. | Do you believe that race plays a part in the handing down of a death sentence? |
| Yes | No | 8. | Do you believe in the death penalty? |
| Yes | No | 9. | Do you think the State should have the automatic appeal? |
| Yes | No | 10. | Should an inmate on death row be allowed to have more than five appeals? |

APPENDIX B

