

Why should We Abolish Capital Punishment?

Abstract

Capital Punishment is the state ordered execution of an offender sentenced to death after conviction by court of law. Presently this law prevails one-third of countries of the world. In recent times capital punishment has been vigorously opposed by human rights activists as well as European countries. This paper deals various arguments in favour of abolition of capital punishment. Major argument in favour of abolition is: state denies right to life by sentencing an individual to death. As no system criminal justice system is foolproof, the risk of executing an innocent individual is always there.

Keywords: Capital Punishment, Human Rights and Deterrence.

Introduction

Capital punishment (or death penalty) is the state ordered execution of an offender sentenced to death after conviction by a court of law. It "should be distinguished from extrajudicial executions carried out without due process of law."¹ All over the world, this punishment is mostly awarded for very severe crimes like murder. However, in some countries this punishment is also given to offenders of other crimes like possession of banned drugs, economic crimes and sexual offences. Though the number of executions worldwide varies from year to year, countries like US, China, Belarus, Congo, Yemen, Iran, Iraq, Jordan, Nigeria, Saudi Arabia, Pakistan, Singapore, Taiwan, Vietnam, execute criminals regularly. India and Japan have also retained the capital punishment and carry out executions from time to time. Presently capital punishment law prevails in one-third of the countries of the world. European countries and human rights activists and Amnesty International have been vigorously opposing the death penalty law on the ground that it violates human rights and dignity and directly contradict existing human rights regimes. They want countries to observe full moratorium on capital punishment till existing laws are amended.

Human rights activists, scholars, philosophers and jurists have given number of arguments in support of complete abolition of death penalty from the world. They are: First, as no criminal justice system is foolproof, the risk of executing some individuals who do not deserve to be executed is always there. In some cases of execution, investigations later revealed that executed person was not the culprit. Therefore, they argue that a fallible criminal justice system ought not to impose a penalty that removes the possibility of any mistake being rectified² in future.

Second, human rights activists say that by sentencing someone to death, state denies them two fundamental human rights, as laid down in Articles 3 and 5 of the Universal Declaration of Human Rights: the right to life, and the right not to be tortured or subject to any cruel, inhuman or degrading punishment.³ Death penalty also violates European Convention of Human Rights (ECHR) and International Covenant on Civil and Political Rights (ICCPR). Thus by giving death penalty, a states violate international regimes.

Third, on an ethical level, it is argued that the death penalty is little more than state-sponsored murder, which is as morally reprehensible as the crime itself.⁴ Another reason which is often ignored is the hell the innocent family and friends of criminals must go through in the time leading up to and during execution.⁵

Fourth, some people oppose the capital punishment on the ground that poor and low income individuals who are accused of crimes usually can afford to pay for legal representation and court or state appointed lawyers have heavy caseloads, and as these lawyers don't get extra financial incentive to secure a "not-guilty" verdict for their client,⁶ don't put energy and effort like private lawyer. Studies on the issue also prove that majority of executions were carried out on people who had been living near or under the poverty line.⁷ Some people claim that racism



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also plays role in the administration of death penalty in America. There generally white prisoner's death penalty is more commuted than black defendants.

Fifthly, one section of the Church supports death penalty on the ground that for murder death is an appropriate consequence. However, another group of Christians believe strongly that the taking of another's life, even in the case of capital crime, is wrong.⁸

Sixth, Albert Camus rejects capital punishment on the ground that murder and death penalty are not equivalent to one another. While arguing this, he says "what is capital punishment if not the most premeditated of murders, to which no criminal act, no matter how calculated, can be compared? If there were to be real equivalence, the death penalty would have to be pronounced upon a criminal who had forewarned his victim of the very moment he would put him to a horrible death, and who, from that time on, had kept him confined at his own discretion for a period of months. It is not in private life that one such monsters."⁹

Seventh, the death penalty is the bluntest of "blunt instruments." It removes the individual's humanity and with it any chance of rehabilitation and their giving something back to society. In the case of the worst criminals, this may be acceptable but is more questionable in the case of less serious or awful crimes.¹⁰

Eight, sometimes states claim that they adopt humane and less painful method for giving death. However, in reality, there is no such thing as a humane method of putting a person to death irrespective of what the state may claim. Every form of execution causes the prisoner suffering.¹¹ However, some methods like injecting lethal injection perhaps cause less pain than others.

Ninth, some people oppose capital punishment on the ground that life imprisonment without parole (LWOP) is far more cruel punishment than death. Philosopher John Stuart Mill supported this argument in the 19th century. It is noted here that around 311 prisoners serving life sentences in various jails in Italy petitioned their government in 207 for the right to be executed. They regard LWOP as living death where prisoners die a little every day.¹²

Tenth, one of the strongest arguments in favour of death penalty is deterrence. However, in reality this has failed to deter people from committing crime. Both India and United States see lots of murder and other heinous crime every year despite having the provision of capital punishment.

Eleven, Rwandan lawyer and academician Aime Muyoboke Karimunda in his book "Death Penalty in Africa: The Path Towards Abolition" argues that the capital punishment law prevailing in African continent is largely a colonial construct.¹³

These above arguments in favour of complete abolition of death penalty from the world have made tremendous impact on the many

retentionist countries' attitude on the issue. Hence, in recent years, many countries have either abolished death penalty or put moratorium on it. Of course, Europe has played a major role in making death penalty abolition movement stronger and successful. Europeans have pressed Washington on the issue too. However, lot needs to be done yet. Leave aside murder. Countries like Iran, Malaysia, Singapore and Philippines continue to impose mandatory death sentence for the possession of relatively small amounts of illegal drugs.

Aim of the Study

It tries to understand the various arguments in favour of abolition of death penalty.

Conclusion

It concludes that various arguments in favour of abolition of death penalty have forced many retentionist countries to reconsider issue again. In recent times many countries have either abolished capital punishment or put moratorium on it.

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