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## **Arguments on death penalty: Theoretical base of classical school of criminology**

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### **Abstract**

Penologist their most compelling arguments against the death penalty were based in Locke's theory of tabula rasa: if the human personality was simply an amalgam of the experiences projected on an individual over the course of development, it followed logically that criminal rehabilitation was inherently possible through penal reform. The death penalty as an (ineffective) deterrent would be wholly unnecessary once total rehabilitation was realized. The criminal was, by the reasoning of the rationalists, a "locus of individual pain and rights," a reflection of society and an opportunity for improvement. This suggestion flew in the face of the traditional view of the criminal as a permanent threat to the wellbeing of society a mindset that necessitated the hasty dispatch of said threat. The rationalists contributed more to the progression of ideas than the development of legislative penal reform. This research paper is arguing traditional overview and argument related to death penalty and its base on the literature review analysis.

**Keywords:** argument, classical school, death penalty, theories, penologist

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### **1. Introduction**

Throughout the eighteenth century, Great Britain experienced a dramatic swell in capital offenses. This swell was the result not of an increase in crime, or even of an increase in violent crime; it was the result, rather, of Parliament's continued enlargement of the long list of offenses punishable by death. In the "illogical chaos" of British law, petty crimes such as pick pocketing were capital offenses while attempted murder remained outside the capital code (Trevelyan 348). Still, by 1770, the seeds of the capital code's demise had been planted. It was in that year that Sir William Meredith suggested that Parliament consider "more proportionate punishments". His proposal, predictably, fell flat, but it began the long string of events that would lead to the eventual abolition of the 'bloody code' of English law nearly two hundred years later (Gatrell, V. A. C. 1994).

The abolition of capital punishment in Great Britain was less a result of legitimate public opinion than of the strong influence of specific groups. From 1770 to 1819, the attack on capital punishment was, for the most part, addressed from a number of diverse standpoints; the attacks were products not of popular sentiment but of the special interests of the groups involved (Briggs, Asa 1983). The critics of this period concerned themselves more with the relationship between the capital code and British society as a whole. They addressed their contentions logically and generally supported them with empirical data (Briggs, Asa 1983). These primary critics are generally categorized into four groups: rationalists, lawyers, radicals, and evangelicals. The rationalists attacked the ineffectiveness of capital punishment, not its cruelties (Gatrell, V. A. C. 1994). They argued that it was too inflexible, it failed to deter crime, and that it's "viciousness corrupted the people".

The Classical "School" of Criminology is a broad label for a group of thinkers of crime and punishment in the 18<sup>th</sup> and early 19<sup>th</sup> centuries. Its basic belief was that criminal behavior could be understood and controlled as an outcome of a "human nature"

Shared by all of us. Human beings were believed to act in terms of their own self-interest, but also to be capable of considering which course of action was really in their self-interest. A well-ordered state, therefore, would construct laws and punishments in such a way that people would understand peaceful and non-criminal actions to be in their self-interest--through strategies of punishment based on deterrence. Written in the 16<sup>th</sup> and early 19<sup>th</sup> centuries! How can this be relevant to current sociological concerns?

Through this research paper it has well compare what these classical thinkers argued to the arguments currently advanced by Rational Choice theorists, arguments about human nature, arguments about surveillance and target hardening and most recently concern for the victims of crime.

### **2. Objectives**

1. To identify Classical theory places an emphasis on free will and human rationality.
2. To analysis on current Rational Choice theory, and compare the Classical School views in preventing crime.
3. To analysis Crime as the result of people freely choosing a particular action in the light of the probable consequences of that action.
4. To identify Punishment exists to deter people from committing crime and it should outweigh the pleasure of criminal gains.

### **3. Findings and Discussions**

#### **Cesare Beccaria (1738-1794).**

Viewed by some as the founder of modern criminology, Beccaria thought that crime could be traced to bad laws, not to bad people. Today, Beccaria's emphasis on prevention of crime, promptness of punishment, and the unnecessary nature of the death penalty are central to contemporary debates on crime. His famous book, *On Crimes and Punishment* presented a new design for the

criminal justice system that served all people. What Beccaria does is consider the purpose of punishment.

Thinking about punishment.

We can distinguish between two principle theories of justifying punishment.

1. First, the retributive approach maintains that punishment should be equal to the harm done, either literally an eye for an eye, or more figuratively which allows for alternative forms of compensation. The retributive approach tends to be retaliatory and vengeance-oriented.
2. The second approach is utilitarian which maintains that punishment should increase the total amount of happiness in the world. This often involves punishment as a means of reforming the criminal, incapacitating him from repeating his crime, and deterring others.
3. Beccaria clearly takes a utilitarian stance. For Beccaria, the purpose of punishment is to create a better society, not revenge. Punishment serves to deter others from committing crimes, and to prevent the criminal from repeating his crime.

#### **In brief of theories**

1. Beccaria appeals to two key philosophical theories: social contract and utility.
2. Beccaria argues that punishment is justified only to defend the social contract and to ensure that everyone will be motivated to abide by it.
3. Concerning utility, Beccaria argues that the method of punishment selected should be that which serves the greatest public good.

#### **Beccaria's suggestions**

1. Beccaria argues that the relationship between crime and punishment should be:
2. Swift: This has the greatest deterrence value. For Beccaria when a punishment quickly follows a crime, then the two ideas of "crime" and "punishment" will be more quickly associated in a person's mind. Also, the link between a crime and a punishment is stronger if the punishment is somehow related to the crime.
3. Certain: According to Beccaria, a punishment must be certain to follow from the crime in order to be an effective deterrent. The greater the extent to which a would-be offender thinks that she can get away with a crime, the less she will weigh the punishment into her deliberation of whether or not to commit the crime.
4. A Deterrent: A strategy of punishment associated with the Classical School. Deterrence can either be specific, punishing an individual so that she won't commit a crime again, or general, punishing an individual to set an example to society, so that others will not commit the same crime. For the Classical School, punishment was primarily justified in terms of general deterrence.
5. Proportional: The Classical School believed that punishments could only deter if they were "proportional" to their crime, where proportionality means (1) that the severity of punishments correspond to the severity of the harm done by the crime, so that more serious crimes receive more serious punishments, and (2) that the type of punishment resembles the crime, so that others in society can best associate the punishment with the crime

6. Clear: He argues that laws should be clear in defining crimes so that judges do not interpret the law, but only decide whether a law has been broken.

#### **Based on Positive and Negative sanctions**

The best ways to prevent crimes are to enact clear and simple laws, reward virtue, and improve education.

#### **Jeremy Bentham (1748-1832).**

Bentham's concern was utilitarianism which assumed the greatest happiness for the greatest number. He believed that individuals weigh the probabilities of present and future pleasures against those of present and future pain. Thus people acted as human calculators, he believed, and that they put all factors into a sort of mathematical equation to decide whether or not to commit an illegal act. He believed then that punishment should be just a bit in excess of the pleasures derived from an act and not any higher than that. The law exists to create happiness for all, thus since punishment creates unhappiness it can be justified if it prevents greater evil than it produces

#### **Thomas Hobbes (1588-1679).**

1. Hobbes wrote Leviathan, a book which became the "greatest, perhaps the sole, masterpiece of political philosophy in the English language": It is an account of the origin and ends of government.
2. Hobbes argued that the life of people in a pre-social state of nature would be, 'nasty, brutish and short,' a constant war of everyman with everyman.

Rational, enlightened self-interest makes men want to escape such a predicament by the establishment of a contract in which they surrender the right of aggression, but not that of self-defense, to an absolute sovereign, whose commands are the law.

3. In Hobbes view, the first principle of human behavior was egoism, or self-interest, and it was this egoism, that was the root of all social conflict."
4. And, so, it was Hobbes who was likely the first to formulate a reason (beyond the divine) as to why it was in man's best interest to band together under a government. The theory is that if people were fully aware of their chances in states either with or without government, they would choose the state with a government as opposed to a state without one. This is so, according to the theory, simply because an individual is better off in a state where only the government can, in certain prescribed situations, legitimately exercise aggression.
5. It was Hobbes' view that it was unnatural for people to put themselves under the control of others, to have a government, but that it was rational to do so.

#### **Arguments for and against the death penalty.**

In 1810 a bill introduced in the British Parliament sought to abolish capital punishment for the offense of stealing five shillings or more from a shop. Judges and magistrates unanimously opposed the measure. In the House of Lords, the chief justice of the Kings Bench, Lord Ellenborough, predicted that the next step would be abolition of the death penalty for stealing five shillings from a house; thereafter no one could "trust himself for an hour without the most alarming apprehension that,

on his return, every vestige of his property [would] be swept away by the hardened robber” (quoted by Herbert B. Ehrmann in “The Death Penalty and the Administration of Justice,” in *The Death Penalty in America*, edited by Hugo Adam Bedau [Anchor, 1967], p.415).

During the same year Parliament abolished the death penalty for picking pockets, but more than 200 crimes remained punishable by death. Each year in Great Britain more than 2,000 persons were being sentenced to die, though only a small number of these sentences were actually carried out. In this regard as in many others, the laws of the English colonies in North America were much less harsh than those of the mother country. At the time of the Revolution, statutes in most of the colonies prescribed hanging for about a dozen offenses, among them murder, treason, piracy, arson, rape, robbery, burglary, sodomy and (in some cases) counterfeiting, horse theft and slave rebellion. But by the early 19th century a movement to abolish the death penalty was gaining strength. The idea was hardly new: craziest Russia had eliminated the death penalty on religious grounds in the 11th century. In the United States the movement had been launched by Benjamin Rush in the 18th century, with the support of such other distinguished citizens of Philadelphia as Benjamin Franklin and Attorney General William Bradford. By the 1830s, bills calling for abolition of capital punishment were being regularly introduced, and defeated, in several state legislatures. In 1846 Michigan voted effectively to abolish the death penalty, the first English-speaking jurisdiction in the world to do so.

In the years since, 12 states have abolished capital punishment entirely. Although statutes still in effect in some states permit the death penalty to be imposed for a variety of offenses -- ranging from statutory rape to desecration of a grave to causing death in a duel murder is virtually the only crime for which it has been recently employed. There are about 400 persons in U.S. prisons under sentence of death, but only one execution (Gary Gilmore's) has been carried out in this country in the past 11 years. However, the issue of whether capital punishment is justifiable is by no means settled. Since the Supreme Court, in the case of *Furman v. Georgia* in 1972, invalidated most existing laws permitting capital punishment, several states have enacted new legislation designed to meet the court's objections to the Georgia law. And recent public-opinion surveys indicate that a large number, possibly a majority, of Americans favor imposing the death penalty for some crimes. But let us ask the ethical question: Ought governments to put to death persons convicted of certain crimes?

First, let us look at grounds on which capital punishment is defended. Most prominent is the argument from deterrence. Capital punishment, it is asserted, is necessary to deter potential criminals. Murderers must be executed so that the lives of potential murder victims may be spared. Two assertions are closely linked here. First, it is said that convicted murderers must be put to death in order to protect the rest of us against those individuals who might kill others if they were at large. This argument, based not strictly on deterrence but on incapacitation of known offenders, is inconclusive, since there are other effective means of protecting the innocent against convicted murderers -- for example, imprisonment of murderers for life in high-security institutions. Second, it is said that the example of capital punishment is needed to deter those who would otherwise commit murder. Knowledge that a crime is punishable by death

will give the potential criminal pause. This second argument rests on the assumption that capital punishment does in fact reduce the incidence of capital crimes -- a presupposition that must be tested against the evidence. Surprisingly, none of the available empirical data shows any significant correlation between the existence or use of the death penalty and the incidence of capital crimes.

When studies have compared the homicide rates for the past 50 years in states that employ the death penalty and in adjoining states that have abolished it, the numbers have in every case been quite similar; the death penalty has had no discernible effect on homicide rates. Further, the shorter-term effects of capital punishment have been studied by examining the daily number of homicides reported in California over a ten-year period to ascertain whether the execution of convicts reduced the number. Fewer homicides were reported on days immediately following an execution, but this reduction was matched by an increase in the number of homicides on the day of execution and the preceding day. Executions had no discernible effect on the weekly total of homicides. (Cf. “Death and Imprisonment as Deterrents to Murder,” by Thorsten Sellin, in Bedau, *op. cit.*, pp. 274-284, and “The Deterrent Effect of Capital Punishment in California.” The available evidence, then, fails to support the claim that capital punishment deters capital crime. For this reason, I think, we may set aside the deterrence argument.

But there is a stronger reason for rejecting the argument one that has to do with the way in which supporter of that argument would have us treat persons. Those who defend capital punishment on grounds of deterrence would have us take the lives of some persons convicted of certain crimes because doing so will discourage crime and thus protect others. But it is a grave moral wrong to treat one person in a way justified solely by the needs of others. To inflict harm on one person in order to serve the purposes of others is to use that person in an immoral and inhumane way, treating him or her not as a person with rights and responsibilities but as a means to other ends. The most serious flaw in the deterrence argument, therefore, is that it is the wrong kind of argument. The execution of criminals cannot be justified by the good which their deaths may do the rest of us.

A second argument for the death penalty maintains that some crimes, chief among them murder, *morally require* the punishment of death. In particular, Christians frequently support capital punishment by appeal to the Mosaic code, which required the death penalty for murder. “The law of capital punishment,” one writer has concluded after reviewing relevant biblical passages, “must stand as a silent but powerful witness to the sacredness of God-given life” (“Christianity and the Death Penalty,” by Jacob Vellenga, in Bedau, *op. cit.*, pp. 123-130). In the Mosaic code, it should be pointed out, there were many capital crimes besides murder. In the book of Deuteronomy, death is prescribed as the penalty for false prophecy, worship of foreign gods, kidnapping, adultery, deception by a bride concerning her virginity, and disobedience to parents. To this list the laws of the book of Exodus add witchcraft, sodomy, and striking or cursing a parent.

I doubt that there is much sentiment in favor of restoring the death penalty in the U.S. for such offenses. But if the laws of Old Testament Israel ought not to govern our treatment of, say, adultery, why should they govern the penalty for murder? To support capital punishment by an appeal to Old Testament law is

to overlook the fact that the ancient theocratic state of Israel was in nearly every respect profoundly different from any modern secular state. For this reason, we cannot simply regard the Mosaic code as normative for the United States today.

But leaving aside reference to Mosaic law, let me state more strongly the argument we are examining. The death penalty, it may be urged, is the only just penalty for a crime such as murder; it is the only fair retribution. Stated thus, the argument at hand seems to be the right kind of argument for capital punishment. If capital punishment can be justified at all, it must be on the basis of the seriousness of the offense for which it is imposed. Retributive considerations should govern the punishment of individuals who violate the law, and chief among these considerations are the principle of proportionality between punishment and offense and the requirement that persons be punished only for acts for which they are truly responsible. I am not persuaded that retributive considerations are sufficient to set a particular penalty for a given offense, but I believe they do require that in comparative terms we visit more serious offenses with more severe punishment.

Therefore, the retributive argument seems the strongest one in support of capital punishment. We ought to deal with convicted offenders not as we want to, but as they deserve. And I am not certain that it is wrong to argue that a person who has deliberately killed another person deserves to die? But even if this principle is valid, should the judicial branch of our governments be empowered to determine whether individuals deserve to die? Are our procedures for making laws and for determining guilt sufficiently reliable that we may entrust our lives to them? I shall return to this important question presently. But consider the following fact: During the years from 1930 to 1962, 466 persons were put to death for the crime of rape. Of these, 399 were black. Can it seriously be maintained that our courts are administering the death penalty to all those and only to those who deserve to die? Two other arguments deserve brief mention. It has been argued that, even if the penalty of life imprisonment were acceptable on other grounds, our society could not reasonably be asked to pay the cost of maintaining convicted murderers in prisons for the remainder of their natural lives. This argument overlooks the considerable costs of retaining the death penalty. Jury selection, conduct of the trial, and the appeals process become extremely time-consuming and elaborate when death is a possible penalty. On the other hand, prisons should not be as expensive as they are. At present those prisoners who work at all are working for absurdly low wages, frequently at menial and degrading tasks. Prisons should be reorganized to provide meaningful work for all able inmates; workers should be paid fair wages for their work and charged for their room and board. Such measures would sharply reduce the cost of prisons and make them more humane.

But these considerations important as they are -- have little relevance to the justification of capital punishment. We should not decide to kill convicted criminals only because it costs so much to keep them alive. The cost to society of imprisonment, large or small, cannot justify capital punishment. Finally, defenders of capital punishment sometimes support their case by citing those convicted offenders -- for example, Gary Gilmore -- who have asked to be executed rather than imprisoned. But this argument, too, is of little relevance. If some prisoners would prefer to die rather than be imprisoned, perhaps we should oblige

them by permitting them to take their own lives. But this consideration has nothing to do with the question of whether we ought to impose the punishment of death on certain offenders, most of whom would prefer to live.

Let us turn now to the case *against* the death penalty. It is sometimes argued that capital punishment is unjustified because those guilty of crimes cannot help acting as they do: the environment, possibly interacting with inherited characteristics, causes some people to commit crimes. It is not moral culpability or choice that divides law-abiding citizens from criminals so Clarence Darrow argued eloquently -- but the accident of birth or social circumstances. If determinism of this sort were valid, not only the death penalty but all forms of punishment would be unjustified. No one who is compelled by circumstances to act deserves to be punished.

But there is little reason to adopt this bleak view of human action. Occasionally coercive threats compel a person to violate the law; and in such cases the individual is rightly excused from legal guilt. Circumstances of deprivation, hardship and lack of education, unfortunately much more widely prevalent, break down the barriers, both moral and material, which deter many of us from breaking the law. They are grounds for exercising extreme caution and for showing mercy in the application of the law, but they are not the sole causes of crimes: they diminish but do not destroy the responsibility of the individual. The great majority of those who break the law do so deliberately, by choice and not as a result of causes beyond their control. Second, the case against the death penalty is sometimes based on the view that the justification of punishment lies in the reform which it effects. Those who break the law, it is said, are ill, suffering either from psychological malfunction or from maladjustment to society. Our responsibility is to treat them, to cure them of their illness, so that they become able to function in socially acceptable ways. Death, obviously, cannot reform anyone.

Like the deterrence argument for capital punishment, this seems to be the wrong *kind* of argument. Punishment is punishment and treatment is treatment, and one must not be substituted for the other. Some persons who violate the law are, without doubt, mentally ill. It is unreasonable and inhumane to punish them for acts which they may not have realized they were doing; to put such a person to death would be an even more grievous wrong. In such cases treatment is called for.

But most persons who break the law are not mentally ill and do know what they are doing. We may not force them to undergo treatment in place of the legal penalty for their offenses. To confine them to mental institutions until those put in authority over them judge that they are cured of their criminal tendencies is far crueler than to sentence them to a term of imprisonment. Voluntary programs of education or vocational training, which help prepare prisoners for non-criminal careers on release, should be made more widely available. But compulsory treatment for all offenders violates their integrity as persons; we need only look to the Soviet Union to see the abuses to which such a practice is liable.

Let us examine a third and stronger argument, a straightforward moral assertion; the state ought not to take life unnecessarily. For many reasons -- among them the example which capital punishment sets, its effect on those who must carry out death sentences and, above all, its violation of a basic moral principle -- the state ought not to kill people. The counterclaim made by

defenders of capital punishment is that in certain circumstances killing people is permissible and even required, and that capital punishment is one of those cases. If a terrorist is about to throw a bomb into a crowded theater, and a police officer is certain that there is no way to stop him except to kill him, the officer should of course kill the terrorist. In some cases of grave and immediate danger, let us grant, killing is justified. But execution bears little resemblance to such cases. It involves the planned, deliberate killing of someone in custody who is not a present threat to human life or safety. Execution is not necessary to save the lives of future victims, since there are other means to secure that end. Is there some vitally important purpose of the state or some fundamental right of persons which cannot be secured without executing convicts? I do not believe there is. And in the absence of any such compelling reason, the moral principle that it is wrong to kill people constitutes a powerful argument against capital punishment. Of the arguments I have mentioned in favor of the death penalty, only one has considerable weight. That is the retributive argument that murder, as an extremely serious offense, requires a comparably severe punishment. Of the arguments so far examined against capital punishment, only one, the moral claim that killing is wrong, is, in my view, acceptable. There is, however, another argument against the death penalty which I find compelling that based on the imperfection of judicial procedure. In the case of *Furman v. Georgia*, the Supreme Court struck down existing legislation because of the arbitrariness with which some convicted offenders were executed and others spared. Laws enacted subsequently in several states have attempted to meet the court's objection, either by making death mandatory for certain offenses or by drawing up standards which the trial jury must follow in deciding, after guilt has been established, whether the death penalty will be imposed in a particular case. But these revisions of the law diminish only slightly the discretion of the jury. When death is made the mandatory sentence for first-degree murder, the question of death or imprisonment becomes the question of whether to find the accused guilty as charged or guilty of a lesser offense, such as second-degree murder.

When standards are spelled out, the impression of greater precision is often only superficial. A recent Texas statute, for example, instructs the jury to impose a sentence of death only if it is established "beyond a reasonable doubt" that "there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society" (Texas Code of Criminal Procedure, Art. 37.071; quoted in *Capital Punishment: The Inevitability of Caprice and Mistake*, by Charles L. Black, Jr. 1974). Such a law does not remove discretion but only adds confusion.

At many other points in the judicial process, discretion rules, and arbitrary or incorrect decisions are possible. The prosecutor must decide whether to charge the accused with a capital crime, and whether to accept a plea of guilty to a lesser charge. (In most states it is impossible to plead guilty to a charge carrying a mandatory death sentence). The jury must determine whether the facts of the case as established by testimony in court fit the legal definition of the offense with which the defendant is charged a definition likely to be complicated at best, incomprehensible at worst. From a mass of confusing and possibly conflicting testimony the jury must choose the most reliable. But evident reliability can be deceptive: persons have been wrongly

convicted of murder on the positive identification of eyewitnesses. Jurors must also determine whether at the time of the crime the accused satisfied the legal definition of insanity.

The most widely used definition the McNaghten Rules formulated by the judges of the House of Lords in 1843 states that a person is excused from criminal responsibility if at the time of his act he suffered from a defect of reason which arose from a disease of the mind and as a result of which he did not "know the nature and quality of his act," or "if he did know it, he did not know he was doing what was wrong" (quoted in *Punishment and Responsibility*, by H. L. A. Hart [Oxford University Press, 1968], p. 189).

Every word of this formula has been subject to legal controversy in interpretation, and it is unreasonable to expect that juries untrained in law will be able to apply it consistently and fairly. Even after sentencing, some offenders escape the death penalty as a result of appeals, other technical legal challenges, or executive clemency. Because of all these opportunities for arbitrary decision, only a small number of those convicted of capital crimes are actually executed. It is hardly surprising that their selection has little to do with the character of their crimes but a great deal to do with the skill of their legal counsel. And the latter depends in large measure on how much money is available for the defense. Inevitably, the death penalty has been imposed most frequently, on the poor, and in this country it has been imposed in disproportionate numbers on blacks.

To cite two examples in this regard: All those executed in Delaware between 1902 and the (temporary) abolition of the state's death penalty in 1958 were unskilled workers with limited education. Of 3,860 persons executed in the United States between 1930 and the present, 2,066, or 54 per cent, were black. Although for a variety of reasons the per capita rate of conviction for most types of crime has been higher among the poor and the black that alone cannot explain why a tenth of the population should account for more than half of those executed.

Doubtless prejudice played a part. But no amount of goodwill and fair-mindedness can compensate for the disadvantage to those who cannot afford the highly skilled legal counsel needed to discern every loophole in the judicial process. Even more worrisome than the discriminatory application of the death penalty is the possibility of mistaken conviction and its ghastly consequences. In a sense, any punishment wrongfully imposed is irrevocable, but none is so irrevocable as death. Although we cannot give back to a person mistakenly imprisoned the time spent or the self-respect lost, we can release and compensate him or her. But we cannot do anything for a person wrongfully executed. While we ought to minimize the opportunities for capricious or mistaken judgments throughout the legal system, we cannot hope for perfect success. There is no reason why our mistakes must be fatal.

Numerous cases of erroneous convictions in capital cases have been documented; several of those convicted were put to death before the error was discovered. However small their number, it is too large. So long as the death penalty exists, there are certain to be others, for every judicial procedure however meticulous, however compassed about with safeguards must be carried out by fallible human beings.

One erroneous execution is too many, because even lawful executions of the indisputably guilty serve no purpose. They are not justified by the need to protect the rest of us, since there are

other means of restraining persons dangerous to society, and there is no evidence that executions deter the commission of crime. A wrongful execution is a grievous injustice that cannot be remedied after the fact. Even a legal and proper execution is a needless taking of human life. Even if one is sympathetic as I am to the claim that a murderer deserves to die, there are compelling reasons not to entrust the power to decide who shall die to the persons and procedures that constitute our judicial system. Support for the death penalty varies widely from nation to nation, and it can be a highly contentious political issue, particularly in democracies that use it. A majority of adults in the United States appear to support its continuance (though like most political issues, the numbers vary widely depending on the exact question asked), but a highly vocal, organized minority of people in that country do not, and non-governmental organizations like Amnesty International and Human Rights Watch lobby against it globally.

In Taiwan, the death penalty appears to have large amounts of public support, and there is little public movement to abolish it. By contrast, in most of Western Europe, public opinion majoritarily regards capital punishment as barbaric and there is little public support for its reinstatement. In countries where it has been abolished, debate is sometimes revived by particularly brutal murders, though few countries have brought it back after abolition. Some of the major arguments used by those opposed to the death penalty include:

1. The death penalty is killing. All killing is wrong; therefore, the death penalty is wrong.
2. The death penalty is a human rights violation.
3. Torture and cruelty are wrong. Some executions are botched and the executed suffer extended pain. Even those who die instantly suffer mental anguish leading up to the execution.
4. Criminal proceedings are fallible. Many people facing the death penalty have been exonerated, sometimes only minutes before their scheduled execution. Others, however, have been executed before evidence clearing them is discovered. Whilst criminal trials not involving the death penalty can involve mistakes, there is at least the opportunity for mistakes to be corrected.
5. Since in many cases at least the defendants are financially indigent and therefore end up being represented by court-appointed attorneys whose credentials are often highly questionable, opponents argue that the prosecution has an unfair advantage.

However, in recent years some death-penalty advocates have gone on record as being open to the concept of using the French inquisitorial system for capital cases instead of the adversarial proceedings currently followed in virtually all-American courts today, thus addressing this issue.

In addition, some states that have the death penalty - most notably New York State - have established an office of "Capital Defender," either appointed by the state's governor or popularly elected.

1. The race of the person to be executed can also affect the likelihood of the sentence they receive. Death-penalty advocates counter this by pointing out that most murders where the killer and victim are of the same race tend to be "crimes of passion" while inter-racial murders are usually "felony murders;" that is to say, murders which were

perpetrated during the commission of some other felony (most commonly either armed robbery or forcible rape), the point being that juries are more likely to impose the death penalty in cases where the offender has killed a total stranger than in those where some deep-seated, personal revenge motive may be present.

2. It can encourage police misconduct as in the incident described in the documentary film *The Thin Blue Line*. In the late 1970s, an innocent man named Randall Adams was framed by the Dallas County police department in Texas for a notorious murder of a police officer because they knew the more likely suspect, David Harris, was still a minor and thus ineligible for the death penalty so Adams had to serve as a scapegoat to execute.
3. It is not a deterrent because anyone that would be deterred by the death penalty would already have been deterred by life in prison, and people that are not deterred by that wouldn't be stopped by any punishment.
4. It has also been argued that the death penalty does not deter murder because most murders are either "crimes of passion" or are planned by people who don't think they'll get caught (however this argument could be used for any penalty).
5. Some people argue that the death penalty brutalizes society, by sending out the message that killing people is the right thing to do in some circumstances.
6. Abolitionists variously argue that statistics show the death penalty either makes no difference to the number of murders, or actually causes them to increase.
7. With mandatory appeals and enhanced procedural and evidentiary requirements for capital cases in the USA, the cost of a death penalty case far exceeds (usually by a factor of ten) the cost of a trial and life imprisonment.
8. Executed "terrorists" may become "martyrs".
9. It denies redemption, in a non-religious sense. Some hold that a judicial system should have the role of educating those found guilty of crimes. If one is executed, he will never have been educated and made a better person.

Key arguments for supporters of the death penalty include:

1. People committing the most heinous crimes (usually murder in countries that practice the death penalty) have forfeited the right to life.
2. Government is not an individual and is given far more powers.
3. The death penalty shows the greatest respect for the ordinary man's, and especially the victim's, inviolable value.

It strikes fewer "innocent persons" than alternative penalties, as among prisoners and ex-prisoners there are many who relapse into new crimes which strike "innocent persons".

4. It provides peace of mind for many victims of crime and their families.
5. It recognizes humankind's natural sense of justice.
6. It is less cruel than prolonged sentences of imprisonment, especially under the conditions that would be popularly demanded for heinous criminals.
7. It is explicitly allowed in constitutions and other documents of basic law.
8. It provides extra leverage for the prosecutor to deal for important testimony and information.

9. It shows how seriously society looks at the most heinous crimes.
10. It enjoys democratic support of the people.
11. It may deter violent crime and murder. Most advocates do not hold that this is a primary reason for supporting the death penalty.

### Conclusions

There is ongoing debate whether capital punishment reduces crime rates, because potential murderers (or other criminals) would be too scared of punishment to commit crime, or it doesn't affect crime rate, because potential criminals think that they won't be caught, so they don't care about punishment until it's too late. There are even studies that have concluded that the death penalty appears to encourage murder. However, like many questions in the social sciences, actual research data on this question can be (and is) interpreted very differently by people with differing predispositions towards capital punishment. In any event, the actual effectiveness or otherwise of it is largely irrelevant to many who feel strongly about the debate, as their views are based on other factors.

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