The United States of America: Execution of the Death Penalty?

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This assignment will focus on the controversial topic of the death penalty in America and whether it should still exist. It will take an insight into the report by the Death Penalty Information Centre (DCIP), why this method of punishment is used and how some executions have gone wrong. It will also cover whether it actually serves as an appropriate deterrence to crime in America, with the use of some statistics from within the 2004 report. Based on a video clip and some case law, we will look at how the death penalty is used for juveniles, and their own views on their given situations.

This article will also touch on the issue of racial bias within the system, particularly whether it exists and will examine the statistics revealed by the report. Most importantly, what is the view by the public on this topic - is there support from them over the use of the death penalty? This article will cover this question as well as taking a look at some cases of innocence.

At the beginning of this year there were 3455 inmates on death row in 37 states, 42 of them by the U.S Government and the Military. Authorised methods of execution are by lethal injection, electrocution, gas chamber, hanging or by firing squad. Why is the death penalty still used? It is argued that it is more humane than life imprisonment. Because it is quick and instantaneous, it is said that the prisoner will suffer less harm in this way than spending the remainder of his life in jail.

However, there have been some executions that have been botched which could provide proof against this argument. Michael L. Radelet quoted 36 such cases, one being where the prisoner, John Evans, was sentenced to death by the electric chair. ‘After the first jolt of electricity, sparks and flames erupted from the electrode attached to Evans’ leg’. ‘Smoke and sparks’ came out from under the hood from around his left temple. After finding that his heart was still beating, the electrode was reattached. The second jolt resulted in ‘more smoke and burning flesh’. Yet again, his heart beat could still be found. A third jolt was applied, leaving his body ‘charred and smouldering’. The process had taken fourteen minutes to complete.

Does the threat of the death penalty deter crime by potential criminals? Looking at the Report by the Death Penalty Information Center (2004), the South is responsible for 85% of executions in America, yet it has ‘consistently been the region with the highest murder rate’. It also states that Texas and Oklahoma were responsible for the most executions in 2003, yet the murder rate increased in both States that year. Most shockingly, this report tells us that non-death penalty states have ‘consistently had lower murder rates than states that use the death penalty’.

1 The Death Penalty in 2004: Year End Report, Death Penalty Information Centre 2004
2 www.deathpenaltyinfo.org/article.php?said=9&did=188#state
3 www.deathpenaltyinfo.org/article.php?said=8&did=478
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The minimum age required for the death penalty ranges from sixteen to eighteen with the majority of the States trying suspects as adults from the ages of sixteen and seventeen.

In footage of an interview, ‘Juvenile Offenders in Their Own Words’ (2000), Glen McGinnis, sentenced to death for murder (he was seventeen at the time of the crime), said that he did not know that the death penalty existed when he was arrested and had ‘never thought about it [the death penalty], so what is it going to deter?’  He was living on the streets at the time and saw scenes of death all of the time and said that he was ‘young, dumb…doing things without thinking of the consequences’.  He was executed two weeks after this interview was conducted, aged 27.

The clip also shows Leo Little, who was convicted of kidnapping and murdering an accountant - the jury had only deliberated for 35 minutes before sentencing him to death.  Randy Arroyo (aged seventeen at the time of the crime), was sentenced to death even though he did not himself pull the trigger.

In the case of Roper v Simmons Simmons was seventeen when given the death penalty for kidnapping and killing a woman in 1993.  His sentence was later overturned on appeal, based on the argument that a national consensus had formed against capital punishment for offenders under eighteen.  The case was then returned to the Supreme Court last year by the attorney-general of Missouri under the argument that the death penalty should still stand.  People opposing the death penalty hoped that the court would rule that the execution of juveniles violates the Eighth Amendment to the Constitution that forbids ‘cruel and unusual punishment’.  However, those who were for the death penalty argued that age is not an issue when determining a crime.

In August 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights stated that executing those who were under eighteen at the time of the crime is ‘contrary to customary international law’.  The UN Convention on the Rights of the Child states that capital punishment shall not be imposed on those who commit offences under the age of eighteen; however, the U.S is one of the two countries in the world who have not ratified this Convention.  In a news report, there has been criticism by the organisation Amnesty International towards the Supreme Court for ruling in the case of Atkins v Virginia that held the execution of mentally incapacitated criminals was ‘cruel and unusual’ while still permitting the execution of juvenile offenders.

This report states that a lot of the criticism regarding the execution of young offenders surrounded claims that a disproportionate number of those scheduled to die are black.  Is there racial bias within the system?  Referring back to the DCIP report, it states that ‘as has been the case for many years, the great majority of those who were executed

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4 ‘Juvenile Offenders in Their Own Words’, CNN & Time, 9th Jan 2000, edited by Meg Pearlstein
5 Roper v Simmons (2003) (No 03-0633)
7 http://www.amnesty.org.uk/abolish/juveniles/factsheet.html
8 The United Nations Convention on the Rights of the Child [Article 37 (a)], 1995
9 http://news.bbc.co.uk/1/hi/world/Americas/2280250.stm
10 Atkins v Virginia (2002) (No 00-8452)

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in 2004 were guilty of murdering white victims’. Half of the murders in the U.S were black victims, yet only 12% of those who were executed were convicted of murdering a black person. In 2003 and 2004, ‘no white person was executed exclusively for the murder of a black person’. However, eleven black offenders were executed for murdering victims who were white.

Looking at the issue of public support for the measure, the report estimates this by looking at the number of death sentences given out annually, due to the fact that they are decided by a jury and not the judge. It shows us that in the late Nineties, the number of sentences in the U.S was on average 300 per year. This rate has dropped by half. 144 death sentences had been reported in 2003 - the lowest amount in thirty years. According to the report, opinion polls that offered a choice between the death penalty and life without parole as the right sentence for first degree murder, support for the death penalty had dropped and support for the latter has steadily increased.

It suggests that along with the other issues mentioned throughout this article, that another reason for this decline could be due to the number of high profile cases involving innocent people being freed from death row. Since 1973, there have been 118 people released from death row with evidence of their innocence.\(^{11}\) There were six such cases in 2004 alone, with one prisoner, Laurence Adams,\(^{12}\) having been released after spending thirty years on death row. The Superior Court Judge Robert Milligan overturned his conviction last year because the police had withheld important evidence. Adams had always insisted that he was innocent. His attorney said that ‘it wasn’t a matter of the defendant being there but not culpable. He wasn’t there [at the scene of the crime]’.

Gary Graham\(^{13}\) was one of those who have been executed despite doubts about his guilt. He was seventeen when charged with the robbery and shooting of the victim outside of a store in 1981. One witness claimed that she saw his face through a windshield from about forty feet away, and he was convicted solely on this testimony by the witness. Staff who worked in the supermarket said that they saw the criminal and that it was not Graham. They were never, however, called to testify at the trial. Graham was executed in 2000.

In conclusion, should the death penalty itself be executed? There is the moral argument for the death penalty -‘an eye for an eye’; however, there is strong evidence that suggests this method of punishment is flawed. To execute one human being for the killing of another, there should be accurate evidence that he actually committed the crime that he is being charged for. There should be no racial bias involved. Juveniles should not be punished in this way for acts committed when their minds and moral rights and wrongs have not yet fully developed. Based on this, the evidence, of inhumane executions and proof that the measure has not deterred crime, at the very least there should be heavy reforms within the death penalty system, or at a push, this method of punishment should definitely be executed.

\(^{11}\) http://www.deathpenalty.org/article.php?said=6&did=110
\(^{12}\) http://www.deathpenalty.org/article.php?said=6&did=109
\(^{13}\) http://www.deathpenalty.org/article.php?said=6&did=111#executed

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