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## Why the Death Penalty Should Be Abolished in the United States

In 2012, 43 people were executed in the United States and 3,146 were on death row (DPIC). Did putting these people to death give the United States any benefit in the form of lower crime? In this paper we analyze the reasons why a civilized society like the United States has a criminal justice system. Next, we ask

if the death penalty makes the U.S. criminal justice system better, or if the death penalty gives no benefit.

Finally we look at the costs to the system of having the death penalty, which includes the financial cost, the possibility of executing likely innocent people, social



Figure 1 Death Penalty Cases Are Expensive

justice costs, and the moral costs. We conclude that there is no clear benefit to the criminal justice system for having the death penalty. Furthermore, we conclude that there are substantial costs. Based on this analysis, it is our position that the death penalty should be abolished in the United States.

First, let's take a fundamental look at the reasons or purposes of punishment, or more accurately, the purposes of the criminal justice system. In other words, why do we punish people who commit crimes? Below are the purposes of the criminal justice system in the United States:

1. Deterrent. The idea of a deterrent is to keep people from committing crimes. If the punishment is great enough, people will not commit the crime. In order for a deterrent to work effectively, potential criminals have to believe that it is likely they will be caught (Lamperti).
2. Rehabilitation. This is the attempt by the criminal justice system to reform criminals (Basile).
3. Restoration. This is the attempt by the system to restore to victims of crime that which the crime took away from the victims. This is possible in cases of property crime, like stealing money, because the criminal can pay the money back. However, it is not possible in cases of violent crime, like murder, since it is impossible to bring a murdered victim back to life.
4. Incapacitation. This is to keep criminals from re-offending by either keeping them in jail, or in cases of the death penalty, by executing the criminal (Piquero).
5. Retribution. This is the need or desire by victims and by society in general to see criminals have some measure of suffering for the crimes they commit.

The death penalty is reserved for only the worst types of crimes. These are premeditated murders, or murders that are particularly heinous or have other aggravating factors, and are often also referred to as capital crimes (Kirchmeier). For the purposes of this paper, we looked only at criminals who have committed capital crimes that would either make them eligible for the death penalty, or an alternative penalty of life in prison without the possibility of parole.

We looked point by point at each aspect of the five points of the criminal justice system listed above and used a simple test: if the death penalty made one of the points significantly stronger than an alternative penalty of life without parole, then we should keep the death penalty.

If it made the point weaker, or made no difference, then we should abolish the death penalty since there is no benefit for the death penalty over life without parole. If there was some marginal benefit to the death penalty on some points, then we should analyze that benefit against the costs of the death penalty and use that to make our final determination of whether or not we should keep the death penalty.

We started by looking at point one, the deterrent benefit of the death penalty. This has been exhaustively studied by scholars since the 1930s including criminal justice scholars, economists, sociologists, etc. The consensus of this research is that there is no additional deterrent benefit to the death penalty over a penalty of life in prison (Radelet). Since there is no additional deterrent benefit, according to our criteria with regard to deterrent, the death penalty should be abolished.

Next we looked at point two, rehabilitation. By definition, our society believes that it is not possible to rehabilitate somebody sentenced to death (otherwise, why would we be executing them if we thought we could rehabilitate them). The same logic goes for the alternative penalty of life in prison. When society locks somebody up for the rest of their natural life, society is basically saying that it is not possible to rehabilitate this person. Since there is no additional rehabilitation benefit, according to our criteria with regard to rehabilitation, the death penalty should be abolished.

Point three, restoration, is the principle whereby a criminal restores to the victim that which was taken. In property crimes like theft, it is possible for the criminal to give back what was taken. However, in the type of violent crimes that would be subject to the death penalty, it is not possible for the criminal to give back what was taken since it is not possible for the criminal

to bring the victim back to life; there is no additional restoration benefit to the criminal justice system by having the death penalty and should, the be abolished.

Next we looked at point four, incapacitation. This is a tough one ; at first glance it would seem that there is no additional benefit to the death penalty since executing a criminal, or keeping them in prison for life would both do an equally good job at keeping the criminal from committing more murders. However, after some research, we realized that there is the possibility that the criminal could commit other crimes, including murders while they are in prison (Worsnop). In other words, they could kill or hurt other inmates or prison guards while in prison. So, if the stated goal is to keep criminals from committing more crimes, then executing the criminal would guarantee they would not commit more crimes. While the possibility of the criminal committing more crimes against others while in prison might be an incapacitation argument in favor of the death penalty, we believe that the costs associated with the death penalty outweigh any marginal incapacitation benefit.

Finally, we discuss point five, retribution. This is the most complicated of the five reasons for the existence of the criminal justice system. The only purpose of retribution is for victims and society to see criminals suffer (Worsnop). Studies have shown that the desire for retribution seems to be hardwired into the brains of humans (Abbinck).

Retribution crosses the line from a logical, scientifically testable reason for a criminal justice system, to a moral, religious, or philosophical issue. For example, it is scientifically testable to show that the death penalty is not a greater deterrent than life in prison. Similarly, it is possible using logic to show that by keeping somebody in prison or by executing them, you are

incapacitating them from committing further crimes. But retribution is different. It serves no other purpose than the apparent need of humans to see criminals suffer.

Is it moral to want retribution? Perhaps it takes a philosopher or a theologian to answer that question.

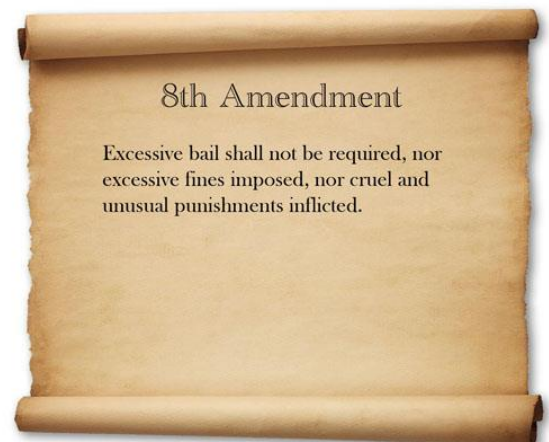
However, in general our society accepts that some amount of retribution is moral and even desirable. Most of us want to see criminals suffer (Worsnop). So if we determine that retribution is morally acceptable, how much retribution is enough for capital crimes? Our society has ruled out torture as too much retribution.

The 8<sup>th</sup> Amendment to the Constitutions forbids “cruel and unusual punishment.” That leaves the amount of retribution for capital crimes being either the death penalty or life in prison without the possibility of parole. Some people think that short of torture, the death penalty is the ultimate form of retribution. However, it is not clear that this is the case. Some criminals might actually prefer death to life in prison. The thought of spending their entire life in prison with no possibility to get out leaves some prisoners to prefer death (Robinson).

One could argue that if we want to subject the prisoner to the maximum amount of retribution, short of torture, then we should find out what the prisoner wants, either life in prison, or the death penalty, and then give them the opposite (Robinson). For example, if the prisoner wanted to die, then to give them maximum retribution we should give them life in prison instead. However, in practice this would be un-workable because it would be too easy for the prisoners to lie.



**Figure 2** Fictional Depiction of Problems during an Execution from the Movie *The Green Mile*



Since some prisoners facing life in prison would rather die, and some prisoners don't want to die, then there is no way to tell which one of these best meets society's need for retribution. Since there is not a clear benefit regarding retribution to having the death penalty,

according to our criteria, the death penalty should be abolished.

**The Cost of Capital Cases**

A death penalty case in Maryland costs about three times more than a case in which the prosecutor does not seek the death penalty, according to a study by the Urban Institute. The study evaluated all 1,227 homicides that occurred in the state from 1978 to 1999 in which the defendant was eligible to receive the death sentence.

	DEATH SENTENCE NOT SOUGHT	DEATH SENTENCE UNSUCCESSFULLY SOUGHT	DEATH SENTENCE
Trial	\$158,000	\$601,000	\$775,000
Penalty phase	0	\$71,000	\$263,000
State appeals	\$83,000	\$175,000	\$565,000
Federal appeals	0	0	\$96,000
Prison	\$862,000	946,000	\$1,318,000*

Of the five points listed above for having a

**Figure 3 Chart Showing the Costs of Death Penalty Cases in Maryland**

Source: "The Cost of the Death Penalty in Maryland," the Urban Institute. THE NEW YORK TIMES

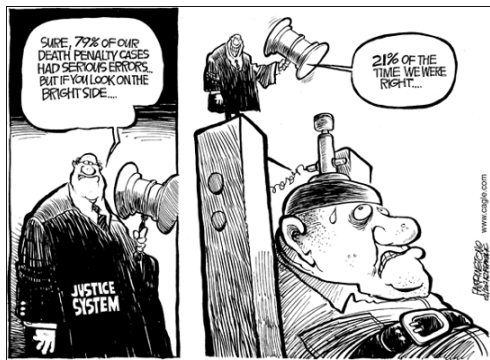
criminal justice system, there is no clear benefit in favor the death penalty in four of five points, and only one of the five points, incapacitation, might have a marginal benefit (the benefit of keeping people serving life in prison from committing crimes against other inmates or prison staff).

Now let's analyze the costs of the death penalty. We broke the costs of the death penalty into four parts:

1. The possibility of executing innocent people.
2. The financial costs of the death penalty.
3. The social justice costs. This is what happens when the death penalty is not fairly applied. For example, when poor or minority populations are executed at a higher rate than non-minority or rich defendants.

4. Moral costs. This is an ethical, moral, religious, or philosophical issue that reasons that a civilized society should not be executing people.

Let's start with part one, the possibility of executing innocent people. We believe that it is the most important job of a criminal justice system to find and punish the people who actually commit the crimes. The criminal justice system and society in general gets no benefit from punishing innocent people. The criminal justice system in the United States is not perfect and



there are many documented cases of criminals convicted of murder, with some even sitting on death row, later being exonerated due to new evidence or new investigative techniques like DNA analysis (Facts on Post-Conviction DNA Exonerations).

There have even been documented cases where likely innocent people have actually been executed (Hull). With so many documented wrongful convictions, we believe that the possibility of executing innocent people imposes too high of a cost for the death penalty.

Next there is part two, the financial costs. It costs more to execute a criminal than to keep that criminal in prison for life.(DPIC). These costs are mostly legal costs that tie up court systems as death penalty cases are subject to multiple appeals. We believe that the financial costs should not be a major determining factor in the criminal justice system because we believe that ultimately justice should be done regardless of the cost. While the financial cost should not be a major factor, it is still a factor, and the fact that the death penalty does impose a higher

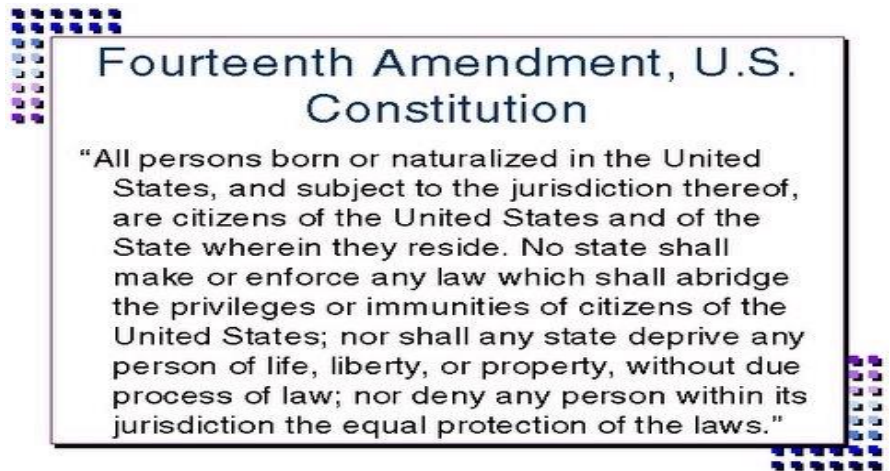
financial cost than an alternative penalty of life without parole adds a marginal amount to the argument to abolish the death penalty.

Next is part three, the social justice costs. The 14<sup>th</sup> Amendment of the Constitution guarantees equal protection of all people under the law. This means that all



Figure 4 A Lethal Injection Bed

people should receive equal justice regardless of their race, religion, geographic location, whether they are rich or poor, etc. However, evidence shows that defendants who are poor or minorities get executed at a higher rate than rich or non-minority defendants. Also, defendants in the South get executed at higher rates than defendants in other parts of the country (Hull). If the purpose of the 14<sup>th</sup> Amendment is to guarantee equal protection under the law, then a criminal justice system that discriminates against the poor, minorities, and people in the South is against the 14<sup>th</sup> Amendment, and does not meet the principals of social justice and therefore the death penalty should be abolished on these grounds.



The fourth and final part is regarding the moral costs to the death penalty. This is an issue that is most similar to retribution discussed earlier. It is not a scientifically testable or logically provable concept. It is more of an ethical, religious, moral, or philosophical issue that argues that if we are to consider ourselves a civilized society, then we should not have state



sponsored executions. Typically, state sponsored executions are most identified with oppressive governments (Iran, China, North Korea, and Saudi Arabia are examples). The United States likes to think of itself as a civilized liberal society. However, regarding the death penalty, the United States is one of the few countries that still executes people, which lumps us in with the likes of China and Saudi Arabia. If the United States really wants to claim the moral high ground and be an example to the world, we should abolish the death penalty.

In conclusion, after examining all of the five reasons for having a criminal justice system, we could only find one of the five reasons (incapacitation) where there might be some marginal benefit to having the death penalty over an alternative penalty of life in prison without parole. However, there was no additional deterrent benefit, no benefit regarding restoration, and no rehabilitation benefit. Regarding retribution, we could find no clear benefit to the death penalty over life without parole since it is not clear which sentence would provide an appropriate amount of retribution. Furthermore, we found that there are substantial costs to the death penalty including the possibility of executing innocent people, financial costs, significant social justice costs, and moral and ethical costs that damages the United States as an example of freedom for the rest of the world. Based on there being almost no criminal justice benefit to the death penalty, and due to the high costs, we conclude that the death penalty should be abolished in the United States.

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