

DISCOURSE ON THE IMPLICATIONS OF CAPITAL PUNISHMENT AND ITS EFFECTS ON MANKIND: A KANTIAN PERSPECTIVE

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Abstract

Moral standards and legal regulations that control how individuals interact and behave are what drive human society. It is a principle that an ethico-judicial order must be established, upheld, and promoted wherever a community is found. Punitive actions are taken by the state to restore order when it is violated, mocked, and taken advantage of by lawlessness and criminal conduct. This emphasizes the idea that there is no punishment in the absence of crime even further. Many ideas have been developed as a result of the diverse responsibilities that different individuals and schools of thought have given to punishment. It is an indisputable fact that most societies across the globe agree that breaking the law will have consequences. Nonetheless, disagreements occur when determining the proper punishment, particularly for heinous crimes like murder. One of these variations, the capital punishment, also referred to as capital punishment or execution, has provoked many debates and disputes between its supporters and opponents. Many countries are presently searching for alternatives to the capital punishment for heinous crimes, like life in prison.

Keywords: Kant, Capital Punishment, Retribution, Nigeria

Introduction

Moral standards and legal regulations that control how individuals interact and behave are what drive human society. It is a principle that an ethico-judicial order must be established, upheld, and promoted wherever a community is found. Punitive actions are taken by the state to restore order when it is violated, mocked, and taken advantage of by lawlessness and criminal conduct. This emphasizes the idea that there is no punishment in the absence of crime even further. Many ideas have been developed as a result of the diverse responsibilities that different individuals and schools of thought have given to punishment. Retaliation, deterrence, and reformation are their names. Taking another person's life is obviously terrible, but it's even truer that the offender should receive a just punishment. The capital punishment is an acceptable form of retribution for crimes committed and a moral embarrassment to those who take human lives. It also helps to bring justice to the victims whose lives were abruptly taken and deters society's worst criminals from committing fresh crimes. The capital punishment, often known as the capital punishment, has been in use for a very long time- millennia even being applied as retribution for transgressions that appeared appropriate for offenders who had committed unthinkable crimes. These days, the capital punishment is only applied to a limited number of specific crimes in the modern world, the most common being murder and terrorism. In some nations, the capital punishment is even applied to crimes like drug trafficking and adultery. Over time, popular

sentiment about the capital punishment seems to be ambivalent, presumably contingent upon the circumstances or offense. In cases where a life term in prison was deemed insufficient for the seriousness of the offense, the capital punishment was considered the appropriate punishment. Nevertheless, some have questioned whether this punishment infringes on an individual's right to life. A person's right to life is the moral conviction that each and every individual has the right to exist and shouldn't be taken advantage of by the state or another individual.

These problems are related to Kant's philosophy for the reason holds that all crimes are equal. The objective of this paper is to explain Kant's positions on the capital punishment consequences. Based on "the principle of equality," the classical maxim *lex talionis*, or "the Law of Retribution," links the capital punishment to the crime. Murderers must be put to death for their crimes; social consequences do not matter. Regarding the capital punishment, Kant is an excellent illustration of pure retributivism. Considering that most of Kant's theories and beliefs are focused on behavior and character, particularly on the capacity to discern between right and evil and the conditions under which it occurs, his views on the capital punishment seem extremely ironic. His moral convictions, however, also make sense given that they require effort in order to be realized in that "good will." Since it is the ethically proper thing to do, doing what is right can result in accomplishing this. Our decision or our personality is the primary reason why we are basically going in the wrong direction if we choose to do something different. There will therefore be repercussions

The Idea of Punishment. Conceptual Clarification

The act of putting someone through anything unpleasant in retaliation for disobedience or undesired behavior is known as punishment. Punishment began as a basic system of retaliation by an individual, family, or tribe. It quickly expanded as an institution safeguarded by governments, becoming a vast criminal and justice system. Punishment has changed along with society. Since punishment is only expected to happen in the event that an inappropriate response is given, it is response- dependent. An unpleasant event can be material (impose a fine, take away an activity or freedom), emotional (show displeasure or withhold affection), or bodily (smack a kid, flog an adult, execute someone). When a parent views a response as "bad" conduct, for example, or when a society defines it as unlawful, it is considered inappropriate and is penalized accordingly (Sanson, 1995:5). Punishment is still used widely, demonstrating how strongly people believe it works. However, there is also a lot of publicly acknowledged evidence that punishment does not work to change conduct, which is frequently ascribed to the offender's "incurability" or the punishment's "weakness" (Sanson, 1995:6).

Perspectives on Capital Punishment

For most impressionable minds, the question of what the capital punishment penalty is foremost. Different perspectives on the world may make it appear hard to define. That could be a reference to the state's judicially imposed capital punishment. Put otherwise, it refers to a judge or jury imposing the capital punishment on a criminal who has committed a major crime such as armed robbery, treason, murder, or felony. Looking closely and critically at the definition of the capital punishment is a better way to answer the question above. Executing a criminal who has been found guilty of a crime by a court of law is known as the capital punishment, or capital punishment. Executions that take place extrajudicially and without following the proper legal procedures should be distinguished from the capital punishment. The terms "capital punishment" and "capital punishment" are occasionally used interchangeably, however due to the potential of commutation to life in prison, the imposition of the sentence does not always result in execution (even when it is sustained on appeal). The morality of the capital punishment and how it affects criminal behavior have long been hot topics of discussion. Three main categories encompass

reasons made in favor of and against the capital punishment today: moral, utilitarian, and practical (Encyclopedia Britannica, 2012:1). Capital punishment proponents contend that murderers have forfeited their own right to life because they have killed another person's life. In addition, they think that the capital punishment is a fair kind of retaliation that expresses and validates the moral outrage of law-abiding citizens in general as well as the victim's relatives. In contrast, opponents of the capital punishment contend that it is ineffective in spreading a moral message because it legitimizes the very behavior that the law is intended to suppress- killing. They base their argument on the writings of Cesare Beccaria, particularly *On Crimes and Punishments* [1764]. They also argue that the capital punishment is unethical when applied to less serious offenses because the harm it causes is completely out of proportion.

The capital punishment is deemed fundamentally inhumane and degrading by abolitionists, who also contend that it violates the condemned person's right to life (Encyclopedia Britannica, 2012:1). It has drawn a variety of opinions from individuals with various worldviews. More than that, it appears that associations, committees, and human rights groups have established to oppose the death sentence. They have considered all sides of the arguments put up in favor of the capital punishment. A bias toward sentiment that is typically felt appears to be present in several discussions concerning the capital punishment. A clear separation between emotion and reason is required in order to disentangle feelings from the circumstances and facts they often surround. Additionally, proponents of the capital punishment assert that the prospect of death serves as an insufficient deterrence for violent criminals, for whom the capital punishment has a particularly strong deterrent effect. However, detractors cite studies that generally show the capital punishment is not a more effective deterrence than life in prison or a sentence to a long term of incarceration (Encyclopedia Britannica, 2012:1).

The use of the capital punishment as a legal social control mechanism extends beyond upholding social values; it is implemented by duly authorized authorities, including judges, military commanders, and Nigerian police. It has been noted that when informal punishments and socialization fail to produce desired behavior, the death sentence may be the last option. There are disagreements over whether the capital punishment may be applied in a way that upholds justice. Advocates of the capital punishment think that laws and processes may be designed to guarantee that only those who truly deserve to die be put to death. On the other hand, opponents argue that the implementation of the capital punishment throughout history demonstrates that any attempt to identify particular types of crimes as deserving of execution will ultimately be biased and arbitrary. In addition, they highlight other factors that they believe make it impossible for the capital punishment to be applied fairly. They contend that racial prejudice drives a majority of white juries to convict a disproportionate number of black and other non-white defendants in capital cases that some people will be executed for crimes they did not commit, and that mistakes are inevitable even in well-run criminal justice systems. Subsequently, they contend that individuals facing the capital punishment are frequently cruelly made to endure extended periods of uncertainty about their fate due to the drawn-out appeals procedure for death sentencing (Encyclopedia Britannica, 2012:1).

Kant's Perspective on the Capital Punishment

Perhaps the most concise (if not the purest) description of the retributive theory of punishment is provided by Kant. The idea is simple in essence: it is unethical to punish someone for pragmatic reasons. Legal punishment must always be the response to guilt. If the primary objective of the punishment is to deter others, protect society, or set an example, then the person receiving the punishment is damaged and their humanity has not been respected. Punishment must thus always be applied in reaction to wrongdoing. Then Kant takes it a step further, arguing that the only true

pillars of the law are equality and justice, and that the guilty must be punished in order to preserve these ideals. It appears from this reading that both of these theories are true. While selecting a penalty, equality should be the guiding principle. A simile is used by Kant. The justice scale's pointer is created to slant equally to both sides, according to Stairs (1992:6), using the equality principle as the guide. Stairs identifies two concepts that are part of Kant's explanation. One of the most frequent ideas is "an eye for an eye." The evil that a transgressor has created ought to be taken into consideration while determining the severity of their punishment

For example, Kant points out that we do not have to insist that individuals who are abused continue to be abused. All that needs to happen is for the victim's suffering to match the perpetrator's suffering. That's one facet of the *jus talionis*, or right to retaliation, right. One quotation that embodies this paradox is "if you steal from another, you steal from yourself" (Stairs, 1992:6). The underlying premise is that when property is taken, robbers typically compromise its security. If that motivation were applied to everyone, it would put their own property in danger. Similar to the last instance, those who disparage others damage their own reputations because they follow a rule that, if it were universally enforced, would let anyone to disparage anyone, even oneself. This and the right to retaliation seem to be related in that it shows that, for instance, the wrong of stealing is the kind that the thief would personally experience if his maxim were to be followed generally. That is why it is especially appropriate for his belongings to be taken away as a kind of punishment. It comes to the right moral conclusion regarding the connection between punishment and crime. It is less clear how this relates to the idea that the punishment should match the seriousness of the offense.

In this case, it seems that we are depending too much on metaphor: if the offender is not brought to justice, then something is not right. In particular, we observe that Kant senses that the capital punishment penalty is appropriate and essential in murderous circumstances. The execution of the murderer is the only penalty suitable for the crime of killing someone else, according to Stairs (1992:6). The only punishment appropriate for the crime of killing someone else is the murderer's execution. In fact, if society had murderers on death row and was on the verge of collapsing, he tells us, "the last murder lying in prison ought to be executed" before the community fell apart. For what reason? For two reasons: (1) "that everyone may realize the desert of his deeds" and (2) "that blood guiltiness may not remain upon the people" (Query: What does this mean in basic English?). Kant goes on to suggest that "if not, they might all be seen as participants in the murder as a public violation of justice" (Stairs, 1992:7). Whether the payback principle applies is a matter of debate. Imagine that someone killed someone by torturing the victim until he was dead. It would seem that the law *talionis* suggests that the murderer should be tortured prior to being executed. Some individuals actually do believe this.

Nevertheless we really would prefer not to have these people around my children or in positions of power. Such a philosophy may be able to be consistently followed by those who take it seriously. But some feel, at least, that they are not properly horrified. Torture is a cruel act. The inhumanity of torturers is being exposed to us. Nevertheless, we become like them and enable the very evil to corrupt our morals when we behave in their way, even in retaliation. That Kant recognized this general point in effect is remarkable. On the capital punishment for murderers, he is uncompromising. However, referring to the person found guilty, he states (Stairs, 1992:7).

However, the fundamental idea appears to be rather clear: even a murderer is entitled to some dignity since they are still people and have worth in and of themselves. Morally repulsive are penalties that ignore the offender's humanity. They are not justice; they are merely clear and obvious revenge. Moreover, it is inaccurate to confuse revenge with the meaning of "retribution"

as defined by Kant. Anyone who has spent time with little toddlers will attest to the naturalness of retaliation tendencies and our propensity to grab things that we legally do not belong to. But morality requires us to rise above our primal desires. For this reason, living a moral life might be difficult. When it comes to punishment, morality also requires us to acknowledge the humanity of the other person. Untrained eyes might find this unfathomable (Stairs, 1992:7). As Kant would (or should, in all consistency) assert, it would not be right to punish the offender by subjecting him to the same procedure. The fact that the criminal did not respect the humanity of his victims does not give us the authority to strip him of his humanity. But if this is the case, one could wonder how the capital punishment could be appropriate.

The state takes on the responsibility of depriving a murderer of his humanity to the greatest extent feasible by the act of execution. It is reasonable to question, then, whether the capital punishment penalty could ever be implemented in a judicial system that genuinely adheres to the categorical imperative. If psychosurgery and torture are illegal forms of punishment, then why is execution still allowed? Stairs (1992:7).

Methods of Punishment

Punishment can be directed towards a person's body, mind, or belongings. The body has been harmed by punishments throughout history. Corporal punishment, which literally translates as "to the body," encompassed several forms of torture or execution, including as beheading, dismembering, flogging, drawing and quartering, and whipping. Throughout history, property seizures and fines have also been frequent occurrences. For a long while, Conley Fines were more prevalent than physical torment. The person's inheritance was forfeited to the monarch, making execution both a financial and physical punishment (Pollock, 2005:8).

Gradually, jail time or lighter forms of deprivation of liberty (probation or parole) have replaced economic and physical sanctions. Nowadays, punishment is practically the same as incarceration (at least in this country). The goal of incarceration was changed from being to hold someone until they were physically punished to being to serve as punishment itself as early as the end of the 14th century. Laws with exactly de-fined prison terms have becoming more prevalent. Clerics were also punished by the church with jail (Pollock, 2005:9). Workhouses, bride wells, and goals were all created in reaction to the same class of citizens, and over time, they all became nearly identical to the other institutions that arose for idlers and vagrants.

According to Pollock (2005:8), those who were impoverished and frequently compelled to commit small-time crimes were known as itinerant poor. Prison sentence is arguably the most complicated of all the penalties mentioned above. The impact on the inmates' material assets is due to the fact that they are unable to make much money while they are behind bars, may lose their job or source of income, deplete their life savings, and have their lifetime earning potential impaired. Because they are governed by others and have little independence, it has an impact on the prisoner's physical health. Actual physical injury from attacks by officers or other prisoners, as well as from untreated illnesses or injuries can occur when someone is incarcerated. In addition, attempts at reformation and the mental decline brought on by the prison's unfavorable atmosphere both assault the psyche. A lot of people call prisons a "psychological punishment... Critics of prisons contend that moral and mental decline rather than physical degradation are the most harmful outcomes. Prisoners experience the motif "You are nothing!" during their incarceration, and it is exceedingly difficult to gauge the psychological toll that jail has on its populace (Pollock, 2005:9).

Theories of Punishment

Reformative Theory of Punishment

In light of the Welfare State notion, the purpose of punishment has undergone significant modifications over the past few centuries. The modern legal concept seeks to "humanize" criminal law and lessen the severity of punishment (Edvin & Donald, 1985:317). Reformists view punishment as a tool for rehabilitation and work to change offenders' behaviors, arguing that criminality is a product of society rather than a natural state. As a result, society has an obligation to reform him by implementing some sensible measures. Reformation—rather than deterrence- is receiving more attention as a result of expanding knowledge about the social and psychological roots of criminal behavior. The use of probation, parole, and suspended sentences has increased, short sentences have been abandoned, and attempts to utilize jail as a teaching ground rather than a place of punishment have been abandoned. These are all signs of a reformatory movement. This method vehemently supports a reformatory strategy based on the straightforward tenet that "we must cure our criminals, not kill them," rejecting the deterrent and retributive aspects of punishment (Edvin & Donald, 1985:318). The deterrent idea, which disregards the wellbeing of criminals, gave rise to the reformatory approach in response. Reformation is really opposed only by the fact that it is ineffective (Loewy, 1975:3).

Retributive Theory of Punishment

Justice, the desert, and rights are the foundations of retributive theory (Bindal, 2009:310). Retributive theory substitutes organized retribution on the framework of the state and law for private punishment. The difference between "lex talionis" and "jus talionis" is that retributionist theory places more emphasis on the wrongdoer than the victim of wrongdoing, in contrast to vengeance theory. In the first section of *The Metaphysics of Morals*, Immanuel Kant addressed the idea of punishment. According to him, morality and justice are rational concepts, and punishment should uphold these concepts. Punishment can only be justified if there is guilt. It's worthwhile to cite his well-known phrases. "The final murder in the prison must be carried out even if a civil society were to dissolve itself by the unanimous consent of all of its members (for instance, if the inhabitants of an island decide to split up and disperse themselves around the world). This is necessary to ensure that each person is held accountable for their actions and to prevent the people from being held guilty of the crime because they refused to insist on carrying out the punishment- for if they do not, they may be considered accomplices in this public violation of justice" (Jordan, 1979:82}).

Kant thought that owing to human dignity, every human being is free and has legal rights. Interfering with another person's right results in the forfeiture and surrender of the individual's own right, making others' intervention in their lives acceptable. Bindal (2009:323) refers to Kant's concept as "moral authorization." The reason a criminal law violator has benefitted from others adhering to the law is that they owe society a debt in the form of punishment, which must be paid before they can be reintegrated into society (Jordan, 1979:83–84).

Utility Theory of Punishment

The goal of punishing offenders is to discourage or prevent future misconduct, according to utilitarian theory, which views punishment as a means to an end. "The primary goal of punishment is to prevent like offenses," stated renowned jurist Jeremy Bentham, who played a significant role in developing the utilitarian theory. Future is infinite; what is past is simply one act. Though comparable offenses may impact all, the offence already committed only affects one person. Even though there are sometimes times when an offense has a greater benefit than a disadvantage, the punishment's negative effects may often be manipulated to outweigh the benefit (Jordan, 1979:84}). Nevertheless, it is always feasible to eliminate the desire to do the same crime again. The ultimate goal of punishment, as put out by retributionists, must be the

avoidance or reduction of crime rather than its retribution. These ideas fall into four categories: compensatory, preventive, deterrent, and reformatory (corrective or therapeutic).

Deterrent Theory of Punishment

The act of incapacitation which eliminates the ability to cause harm is a treatment based on the idea that the target of punishment should be fear itself; this idea is known as the deterrent principle. Bentham even went so far as to give death sentences in order to prevent the offender from causing harm (Baumgardt, 1952:209). According to Bentham, crimes committed in the past should be treated as opportunities to punish offenders in a way that will deter future crimes (Baumgardt, 1952:167). Two strategies are used in specific deterrence. An offender would first be imprisoned for a set amount of time in order to keep him from committing another crime. Second, the goal of this incapacitation is to make the other offender want to refrain from committing the same crime by making it so uncomfortable. Individual deterrence is referred to as "general" or "community" deterrence when it is employed as a tool to spread messages throughout society. The legitimacy of sanctions would be strengthened by a greater proportion of criminals being apprehended and punished. Honesty is the best policy since crime doesn't pay. Deterrent theory seeks to convey such message to society. It would be against improved prison conditions as recommended by reformists once deterrent as painful punishment is accepted.

Utility of Deterrent Theory

As long as the offender is incarcerated, imprisonment as deterrence may offer momentary respite because the fear element cannot destroy the motivation behind the crime. Ironically, sometimes the repercussions of sanction like pain are ironic. Although it is believed that punishment will dissuade offenders, in practice it hardens the criminals because deterrence becomes ineffective against such offenders once they become acclimated to punishment (David, 2008:24). The well-known example from earlier times is that pickpocket activity increased when people congregated to witness pickpockets being publicly hung. Data collection about people who have refrained is challenging. When law and order breaks down, data can be taken into consideration to determine how effective the deterrent hypothesis is. Just have a look at the sheer amount of crimes that were perpetrated after Indira Gandhi was killed. The Godhra incident in Gujarat led to a breakdown of law and order, and the same thing happened there.

Thus, the real question in the pickpocketing scenario is not how many pickpockets there are despite the punishment for them, but rather how many more there would have been in the absence of the punishment. Glanville Williams expresses a similar opinion, arguing that we should be much worse off if there were no social mechanisms in place to penalize wrongdoers. Bentham and other utilitarians supported preventive measures that work to deter crimes (Baumgardt, 1952:167). It is hardly in dispute that certain people require restraint. Not even the most ardent supporter of the reformation hypothesis would argue that an unreformed dangerous criminal with a criminal record should be allowed to operate freely while undergoing rehabilitation. Targeting the criminal directly as a means of incapacitation, physical separation between the offender and victim or future victim obstructs the criminal's capacity and chance to commit additional crimes. Because it functions as both a helpful preventive measure and an effective deterrent, preventive philosophy is the ideal form of punishment. Promptness and proportionality aspects play a major role in the effectiveness of preventive theory (Macklin, 1978:171).

Utilitarian Arguments Concerning Capital Punishment.

The sources of incentive were highlighted by Bentham's utilitarian perspective on punishment, which was heavily influenced by Beccaria, as the key to comprehending what went into encouraging law-abiding behavior (Baumgardt, 1952:218). As David notes, Bentham

established a clear and fundamental separation of the causes from which suffering labeled as "punishment" may be considered to stem. Based on his broader theory, he gave significant weight to the range of guiding punishments and provided a thorough explanation of the four kinds of pain and pleasure that serve as effective behavioral restrictions. He referred to these as the moral, theological, political, and physical penalties (Baumgardt, 1952:218). According to his explanation, pain originated from nature as the physical sanction, from a magistrate acting in accordance with a sovereign's will as the political or legal sanction, from the community's spontaneous disapproval as the moral sanction, and finally from the "hand of a superior invisible being" as the religious sanction. Not only did Bentham characterize legal punishment as the embodiment of an undeniable evil, but he also deviated significantly from his contemporaries in his endeavor to elicit a more "scientific" approach to the debate on punishment (Baumgardt, 1952:218).

In addition, the word "punishment" itself has been used more broadly. According to Baumgardt (1952:218), punishment was a specific type of pain that resulted from an activity that might be classified as a "offence" rather than just from an individual's actions. According to Bentham, "the concept of punishment is predicated on the concept of offense: punishment is not meted out but rather considered in light of offense" (Baumgardt, 1952:4). The theory of utilitarianism, which holds that a deed is morally justified if it advances happiness, is credited to Jeremy Bentham. Promoting the greatest happiness for the largest number of people should therefore be the goal of all acts. Bentham thought that since punishment was wicked, it should only be meted out in a way that balances the pleasure gained from the offense (Carrigan, 1991:319). Bentham's Panopticon helped him gain notoriety as an advocate for penal reform. Appendix A offers a broad overview of Bentham's creation's design. The Panopticon was an 18th-century prison structure. The intention of the design was to enable an observer to view the captives from a central watchtower without being aware of the actual location of that person. Because the captives were unable to determine which section of the watchtower, if any, the guard was in, it fostered compliance. Saying that these people and other thinkers had no impact on the judicial system would be untrue (Carrigan, 1991:319).

Bentham thought that by focusing on moral decisions and establishing a fair legal system, society might prevent crime before it started. He supported non-direct methods of deterring crime, like religious penalties, education, and the promotion of an enlightened, charitable community, in order to discourage "encouragement to crime" (Jim. 2004:72). Bentham thought that punishment had the ability to deter. As the deterrence value declined, he believed that the harshness of punishment should be raised. Bentham, however, also supported alternatives to traditional punishment, contending that not all crimes call for heavy punishments or incarceration. He proposed that "forfeitures," "private punishment," and other limitations might serve as effective deterrents. Bentham also advocated considering the circumstances surrounding a crime and the characteristics of the criminal when determining the appropriate degree of punishment, in contrast to classical thinkers who maintained that all offenders should be treated equally, regardless of the circumstances (Jim. 2004:72). Reforming jail laws was one of the main ways that Bentham attempted to combat crime. He outlined certain guidelines for prison administration and sentencing that have been in place for decades.

These included fining wardens for prisoner deaths and holding them accountable for injuries caused to inmates, giving judges more discretion when imposing sentences, presuming bail and instituting home confinement, and acknowledging that certain penalties, like transportation, disproportionately affected the poor and lower classes (Jim. 2004:72). Bentham envisioned a single, circular structure with layers of cells surrounding a floor-to-ceiling guard tower in the

middle. Every cell would have a window for natural light and air, and staff members could access it securely and with ease. Above all, this new technology would enable visual access to each prisoner's cell for a single guard. By enhancing discipline and lowering the number of staff members needed to maintain it, he thought that keeping convicts under observation would improve prison control and make it safer, more efficient, humane, and effective. Instead of just sitting about, inmates in the panopticon would labor, teaching them the value of self-control while also generating revenue for the institution (Jim. 2004:73). Reform continued well into the 19th century, thanks to Bentham's additional insights into the design and administration of prisons. He advocated community responsibility for offenders and his views about reform and alternative punishments set the intellectual foundation for the eventual establishment of parole and probation. Today's criminologists seldom ever read him, yet his influence endures. Given his belief that social justice and just law are inextricably linked and that both are required for efficient and compassionate correctional facilities, he is an interesting case study. Jim (2004:3).

Implications of Capital Punishment and Its Effects on Mankind

Since the capital punishment has always been a contentious practice, opposition against it dates back to the eighteenth century. During this time, theorists and Enlightenment intellectuals were drawn to humanity and the notion that society could be made better (Carrigan, 1991:318). As a result of their renewed confidence in mankind, Enlightenment intellectuals became involved in a number of groups, including one that called for criminal reform. Strict penalties and especially the capital punishment were not in line with the beliefs of Enlightenment intellectuals. Theorists of penal reform advocated for an approach that would not only punish but also assist, enhance, and reform (Carrigan, 1991:319). The writings of Jeremy Bentham and Cesare Beccaria are interesting. Beccaria addressed "the cruelty of punishments, and the irregularities of criminal procedures" in his treatise *Treatise on Crimes and Punishments*. He believed that the capital punishment was absurd and barbaric. Beccaria's logic has persisted into the modern era in more basic versions. An analogous argument, which is probably based on Beccaria's line, goes something like this: "Why do we kill people, who kill people, to show that killing people is wrong?"

The concept remains the same. Beccaria held that it was incomprehensible to kill people in order to prove that murder was wrong. As a result, he advocated for education as a means of preventing crime as well as a more just and organized legal system, where the penalty was appropriate for the offense (Carrigan, 1991:318). Since utilitarianism holds that a deed is morally justified if it advances happiness, Jeremy Bentham is credited with developing the theory. Then, promoting the greatest happiness for the largest number of people should be the goal of every action. Bentham held that since punishment was wicked, it should only be meted out in a way that balances the pleasure that the offender receives from the crime. Bentham's Panopticon helped him gain notoriety as an advocate for penal reform. Bentham's creation's general design is shown in Appendix A. Designed in the 18th century; the Panopticon was a prison structure. The intention of the design was to enable an observer to view the captives from a central watchtower without being aware of the actual location of that person. The fact that the inmates were unable to determine which section of the watchtower, if any, the guard was in encouraged obedience. It would be untrue to claim that these people and other thinkers had no impact on the judicial system (Carrigan, 1991:320).

Both arguments for and against the capital punishment are many. Certain members of the public have such a strong inclination towards murder or terrorist acts that society punishes them with the capital punishment to demonstrate how abhorrent it is and to deter them from committing such crimes in the future. This is also done to alert people who share the same mentality to the negative

effects of such behavior. Secondly, it can be extremely expensive to keep these people in jail for a long time if they are given life sentences rather than the capital punishment.

Following a life sentence, a person's family and social group frequently rejects him upon his release. He has a hard time finding employment, which forces him to resume his antisocial behavior. 4. The right to life belongs to all people. Should someone attempt to take away that privilege, they should be executed. Moving on, let us examine the perspectives of individuals who oppose the capital punishment. Criminality cannot always be avoided by imposing exemplary punishment. Even when many of their fellow fighters were hanged during India's struggle for independence, they did not back down. Additionally, a lot of offenders plan to kill the witnesses in order to escape the capital punishment. If the capital punishment were eliminated, this would not happen. 2) Offenders are not always solely accountable for their actions. It's possible that they suffered from political, social, or economic injustice. If they are made to realize their mistakes, these people might be able to change. However, there won't be any opportunity for reformation if the capital punishment is applied. 3) Offenders given life sentences are compelled to labor in order to support themselves. As a result, state spending will be reduced (Roy, 2014:96). Philosophers have differing perspectives on the death sentence, notwithstanding differences in how they understand the great philosophers and philosophical systems. Philosophers who subscribe to the utilitarian school of thought may support the capital punishment while others may argue against it. Since humanity is predicated on the notion that a person's life has intrinsic value and that the capital punishment is the complete denial of that right, the capital punishment poses a challenge to fundamental human rights. However, this notion may conflict with the notion of a just society.

Justice is absolute to Kant, and he contends that the capital punishment is the only appropriate way to punish murder as the punishment itself needs to be a purpose. He adheres to the theory of "ius talionis," which holds that wrongdoing is penalized by a corresponding penalty. However, Kant's categorical imperative, which states that a person must always be viewed as a goal in and of themselves rather than as a means to achieving an objective, also contains reasons against the capital punishment. The categorical imperative is broken if the offender is utilized to further your goal of justice (Keynes 2012:5).

The ideas of Kant A person seeking retribution should treat others as they have been treated, give them what they deserve, and strike back with just as much vigor as they have. "An eye for an eye, a tooth for a tooth, and a life for a life" is the traditional legal maxim *lex talionis*, which is frequently advanced by retributionists. Given that retaliation also involves hurting the offender, how is it different from revenge? The distinction is that, although revenge frequently entails striking back harder than we have been struck, retribution necessitates using equal force in response. Often to the satisfaction of the one taking it, revenge goes beyond what someone deserves. In addition to when someone violates the "minimum standards of decency and consideration for others," retributive claims for punishment may also be made in cases where harm to others has occurred. Someone who tries to hurt someone else but is unsuccessful, for instance, nonetheless provokes calls for retaliation and punishment. Additionally, someone who shows disdain for others or acts in a way that puts others in danger inspires a desire for retaliation and punishment (Keynes 2012:5).

Immanuel Kant offers a more intricate explanation of vengeance in addition to *lex talionis*. Kant considers the mindset or intention of the transgressor. Because inadvertent crimes would be subject to a lesser penalty than purposeful ones, retribution would be more flexible than *lex talionis*. According to Kant, individuals are capable of reason and understanding what they do,

therefore when we consciously do an action, we are expressing our beliefs about how everyone else should act. The purpose of punishment is then to have people do to others what they have said should be done. Punishment, then, respects the individual because it only applies to you in proportion to what you have purposefully done to others. Kant believed that it is our responsibility to act exclusively in the way that we think all reasonable people should act. It is impossible to say that certain behaviors, including lying, stealing, and murder, are universal. Put another way, reasonable individuals cannot and do not think that lying, stealing, and murder are acceptable behaviors, so these things are wrong. People, who murder, for instance, show that they think other people ought to treat them this way.

This is when retributive punishment enters the picture, providing them with what it appears they are requesting- that is, death (Keynes 2012:6). Retributivism relates punishment to what the person deserves, avoiding the issues of over-punishing, under-punishing, and punishing the innocent. This is the main element that draws us to retributivism above the utilitarian reason for punishment. Nonetheless, there are a number of issues with a purely retributivist conception of punishment. 1. Why is punishment morally justified? A purpose or benefit for punishment- the larger good attained via rehabilitation and deterrence- can be offered by the utilitarian. Retributivism appears to support punishment more for its own sake than for any specific advantage. Any true retributivist, for instance, would contend that even in the event of the end of the world, it is our responsibility to see to it that everyone who is in custody is put to death. Thus, there is no future use for retributive punishment. 2. How should crimes be punished? All well, so we kill the murderer and take an eye for an eye, but do we also rape the rapist, torture the torturer, and steal from the thief? What criteria do we use to decide what people deserve, except from a few straightforward situations? What just penalty is in order for taking a candy bar? Concerning rape, what about it? Should a murder be punished more severely than a single murder? Retribution is not justified when it comes to rehabilitation or deterrence, so you are not allowed to use them as justifications for your answers to any of the questions. Moreover, you need to provide evidence for your response that goes beyond personal taste, as society would penalize similar situations based on your choice (Keynes 2012:6).

Conclusion

The capital punishment is a divisive issue in modern times. Regardless matter whether a country employs this kind of punishment or not, it will persist. Since the arguments for and against the capital punishment are equally reasonable and seem to be in the best interests of humanity, the issue of whether it should be legalized is not improbable. Utilitarianism seeks to maximize benefits to society, such safety and security, when it comes to punishment. While the capital punishment removes a convicted criminal from society forever, life in prison without the possibility of parole offers a comparable level of social protection. In this particular case, utilitarianism opposes the capital punishment due to life in prison accomplishes the same goal and there is no good reason to select the capital punishment over a life sentence that is just as effective. Deterrence is the unique rationale offered by utilitarianism for endorsing the capital punishment as the morally right kind of punishment. The utilitarian perspective holds that the capital punishment has two functions: it deters would-be murderers and stops further killings. Life in prison does not greatly safeguard society, but it does keep the offender away from it.

Immanuel Kant supported a doctrine of retributive punishment that considered treating people as means, but it also took the criminal's guilt into consideration. Kant believed that the criminal, like all humans, should be seen as a means to an end and punished for their guilt; the just should also benefit from this. Just desert obligates society to punish the offender according to the seriousness of the offense. Retribution is the central idea in Kant's philosophy of justice and punishment. The

culprit is deserving of punishment because they committed a crime and should get payback in a way appropriate to the offense.

When a moral society has the ability to stop homicides, it would seem right. Since the killing of another person is the greatest of all crimes and should be punished to the death, society imposes such severe penalties as the death sentence on certain murderers. However, wouldn't it be better to reject murder's inherent immorality from the outset by society's refusal to engage in such behavior, even in merely desert scenarios? If the practice of the death sentence shows the resolve to willfully eliminate life when justification arises, it nonetheless respects the value of human life, or at least renounces murder. One could argue whether life in prison is a severe enough penalty for those who commit murder. These conditions are undoubtedly met by the capital punishment and the life sentence both. Despite the fact that lethal injections, hangings, and firing squads are all thought to be less painful than firing squads, society has gradually moved away from these forms of execution since they are now seen as unneeded for the purpose of punishment and as primitive and barbaric. Not all murderers are put to death these days, and those that are are carried out in secret, visible to all but a select group of people. In the past, we practiced the public execution of a significantly larger number of murderers and other offenders in a manner that was visible to all. These days, lethal injection is used for the great majority of executions. Criminals used to be drawn and quartered, shot, hanged, or electrocuted for a short period of time. The idea that the capital punishment is not the most ethically acceptable type of punishment for a civilized society to use appears to be slowly but surely gaining traction. Consequently, there are now fewer crimes that incur the capital punishment, fewer execution sites are available, and more painless means of execution are employed.

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