



The Death Penalty in Western Thought: An Ethical Study

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Abstract:

Some philosophers of ethics in contemporary Western thought argue that the death penalty is not a deterrent for perpetrators of murder to refrain from committing this crime, because the killer kills their victim while fully aware that they will face the death penalty. On the other hand, another group of thinkers and legal professionals believe that the death penalty holds enough deterrent power to prevent anyone from contemplating the crime of murder. Others argue that the death penalty should be replaced with a system of reform or rehabilitation, which they consider the optimal way to prevent murders. Punishment and imprisonment for a legally defined period work to improve the criminal's behavior and transform them into a law-abiding member of society in the future. Through these different perspectives, this research discusses the effectiveness of the death penalty in deterring crime and ensuring safety and security in society.

Keywords:

Death penalty – Deterrence theory – Preventive theory – Functional equivalence – Reform and rehabilitation theory – Retributive theory – Utilitarian school.



Contemporary Western thought has approached the death penalty from various perspectives. Some moral philosophers argue that capital punishment does not deter murderers, as a killer may be fully aware that they could face the death penalty yet still commit the crime. On the other hand, some thinkers and legal experts believe that the death penalty possesses sufficient deterrent effect to discourage anyone considering murder. Others contend that reform or rehabilitation is the optimal way to prevent homicide, asserting that punishment and a fixed prison sentence can transform offenders into law-abiding citizens in the future. These differing viewpoints fuel discussions and debates about the effectiveness of the death penalty in deterring crime and achieving safety and security in society, which this research paper will explore.

The case of John Evans, executed by electrocution in ١٩٨٣, highlights this debate. Evans lived in Beaumont, Texas, and was convicted of murdering Edward Nassar, the owner of an exchange office, in front of his two young daughters. After his arrest, Evans stood trial for first-degree murder and was sentenced to death, with the execution carried out in April ١٩٨٣. The following day, newspapers published several articles criticizing the method of execution, describing it as brutal (١). Reports indicated that the executioner could not justify why the process took ten minutes and required three electric shocks, leading Evans's attorney to label it a barbaric act.

Evans was strapped into the electric chair, subjected to torture under the guise of justice and retribution. He was bound to the chair with straps, an electric cap affixed to his head, and his chin pulled harshly back by a strap. His face was covered with a black mask that hung down



to his chest. The first electric shock was administered within the first thirty seconds, followed by a second shock three minutes later. Witnesses reported that Evans gasped, and flames erupted from the strap on his left side, while doctors confirmed he was still alive. Those present pleaded for mercy from George Wallace, the executioner, arguing that prolonging the execution was a form of cruelty. However, the third electric shock was delivered approximately seven minutes later, after which Evans died (٢).

Thinkers and legal experts viewed this incident as an expression of unacceptable brutality, leading some to consider the death penalty a form of grotesque retribution, particularly given the manner of execution. They questioned how such a punishment could be justified in terms of human and moral standards. Western intellectuals can be divided into four groups regarding this issue, or, if you prefer, four ethical theories.

The First Theory: Deterrence Theory

Proponents of deterrence theory argue that the existence of capital punishment serves as a strong barrier against homicide in society. For instance, the gruesome execution of John Evans is seen as instilling fear and terror in the hearts of others who might commit similar crimes. This deterrence effect extends to potential offenders who may be frightened into abstaining from acts that could lead them to the same fate (٣).

Supporters of the necessity theory agree with the deterrence theorists in justifying the death penalty. They believe that the justification for punishment depends on its outcomes and its role in modifying human



behavior. Among the most important outcomes is that punishment, particularly capital punishment, not only deters the offender but also prevents others from committing murder (٤).

As long as this punishment benefits society, one cannot dismiss the relationship between these outcomes and the justification of the penalty. Consequently, most punishments are justified based on this necessity theory, which suggests that legislation should encompass penal laws that have no viable alternatives. Such laws garner moral and rational acceptance due to their deterrent effects on others (٥).

Deterrence theorists contend that a murderer attacks society as a whole. Therefore, if society employs lethal force to defend itself, it has a strong justification for doing so. Punishing the murderer ensures that they will not threaten society again. This strategy implies that the right to life of the people is upheld by taking away the murderer's right to life, as they have infringed upon the lives of others. Those who threaten lives forfeit their right to live, or retain it only if the rights of others are disregarded (٦).

Some proponents of this theory, including moral philosophers, advocate for retribution. If society finds it difficult to apply capital punishment, then individuals must take necessary measures to protect their lives by avenging the murderer. These philosophers emphasize that justice requires the execution of the killer; thus, the implementation of capital punishment ultimately benefits society by saving more lives than it takes. Some studies suggest that for every execution carried out, many future lives are saved by deterring potential killers (٧).



In light of this view, some philosophers, such as Warren Quinn, argue that the death penalty is rooted in our fundamental right to protect ourselves by threatening criminals. This right resembles the right to self-defense and the right of individuals to build barriers and fortifications to safeguard themselves and their property. This, in turn, enables society to curb crime by linking it to its consequences, including the sacrifice of the offender's life when subjected to the death penalty (٨).

Quinn asserts that our collective right to self-protection compels us to devise severe and appropriate punishments to deter criminals, even before the establishment of civil authorities. Every individual has the right to defend themselves through suitable preventive and retaliatory actions. However, while this may occur in primitive societies, we must now entrust our individual rights for self-protection to a public authority—the state—which enacts penal laws to deter criminals (٩).

Critique of Deterrence Theory

Political thinker Ted Honderich argues that accepting deterrence theory as a justification for the death penalty implies that those subjected to punishment have no right to object or resist, as their punishment serves the significant purpose of deterring others and preventing similar crimes. However, justifying punishment in this manner strips these individuals of all their human rights, reducing them to mere instruments for deterring others and serving as lessons for society. Consequently, this perspective could justify violating any of their human rights, as they are treated as objects rather than human beings (١٠).



Deterrence theorists counter this argument. For instance, Jeffrie Murphy posits that punishment is directed at the criminal themselves, not merely as a means to an end. According to Murphy, individuals subject themselves to the laws of society by participating in it, thereby consenting to the authority of that society. He bases his argument on social contract theory, drawing on the ideas of Kant and Rawls. Under this theory, a person who freely accepts the legitimate authority of the state also agrees to the principle of punishment that the state imposes on lawbreakers. Therefore, when the state punishes someone, it does so in a manner that the individual has chosen and agreed to through their rational consent (١١).

Philosopher Richard Brandt supports deterrence theory from a utilitarian perspective, arguing that the severity of punishment should be balanced with the benefits it produces. He asserts that capital punishment is applied only to those who commit premeditated murder. By instilling the death penalty in societal consciousness, it reinforces the sanctity of innocent life, making the death penalty for the murderer acceptable in the minds of society members (١٢).

However, opponents of the death penalty reference crime rates in countries that implement capital punishment, arguing that this penalty does not effectively deter murder. Statistics show that murder rates in countries with the death penalty are not lower than in those without it. This suggests that a person committing murder is often in a state of mental disturbance that prevents them from considering the consequences of their actions. For instance, during the commission of



his crime, Evans was likely unaware of the benefits and harms resulting from his behavior (١٣).

The Second Theory: Preventative Theory

Proponents of preventative theory argue that the primary objective of any punishment, particularly capital punishment, is to prevent the murderer from committing further acts of violence. Therefore, they believe that the death penalty is the most effective solution to ensure that the offender does not commit the crime again. While they align with deterrence theorists in advocating for the death penalty, their focus is on preventing the individual criminal from reoffending rather than deterring society at large (١٤).

Opponents of the death penalty, however, assert that executing a person is an unjust form of cruelty aimed at incapacitating the offender, arguing that life imprisonment could serve the same purpose. They contend that John Evans should have received a life sentence instead of the harsh execution he faced (١٥).

In response, supporters of preventative theory maintain that the severity of punishment should correspond to the gravity of the crime. This moral perspective, known as "functional equivalence," posits that all crimes of a similar nature should receive appropriate penalties each time they occur, with the punishment reflecting the seriousness of the offense. Thus, they argue that the supposed cruelty of the death penalty is negated by this principle (١٦).



When critics claim that the death penalty does not prevent the murderer from committing the crime, supporters counter that it is necessary to prevent the individual from killing again. They argue that this can only be achieved through execution, as failing to impose the death penalty might encourage others to satisfy their criminal desires. Consequently, they believe it is not unjust to renew the punishment against these individuals (١٧).

The Third Theory: Reform and Rehabilitation

Advocates of reform and rehabilitation reject the death penalty as a punitive measure to deter crime and eliminate offenders. They argue that the purpose of punishment should be to prevent individuals from committing future crimes and to rehabilitate offenders, enabling them to become law-abiding members of society who respect its customs and laws. Therefore, they see no justification for capital punishment whatsoever (١٨).

However, while liberals oppose the death penalty, they also challenge the arguments of reform proponents. They assert that inmates should have the freedom to choose their own cultural, religious, and traditional beliefs and should not be coerced by prison authorities into accepting values they do not believe in. They view punitive measures aimed at reforming criminals as coercive or flawed, as they do not allow individuals to select their own value systems and instead force them to accept societal values, often exploiting their psychological circumstances (١٩).



The Fourth Theory: Retributive Theory

According to retributive theory, a criminal, particularly a murderer, becomes deserving of the death penalty through their deliberate act of taking another's life. Justice demands that the offender faces a punishment proportionate to the harm inflicted on the victim. This perspective is reflected in the words of the mother of the murder victim, who stated that Evans received what he deserved. Interestingly, even Evans's lawyer shared this viewpoint, despite his objections to the manner of execution, viewing it as an unjust form of torture (٢٠).

Opponents of the death penalty argue that this theory merely serves to justify societal vengeance in a socially acceptable manner, ultimately rendering it unethical as it violates human dignity. They contend that we must respect human dignity even for criminals, emphasizing that the value of human life should be ingrained in society to prevent anyone from committing murder, as killing undermines humanity as a whole (٢١).

Retributive theorists counter that such objections are based on Socratic principles, which suggest that virtue is knowledge and vice is ignorance. They argue that perpetrators of murder exist in the same society that upholds cultural values prohibiting murder, yet they still commit these crimes. Although such offenders may be imprisoned for extended periods, they often re-offend upon release. Hence, they assert that the only way to protect lives and property is through the death penalty (٢٢).



American Judges' Rejection of the Death Penalty

Judge William Brennan, who served on the U.S. Supreme Court from ١٩٦٥ to ١٩٩٠, argued that contemporary society opposes the death penalty, citing that it contradicts human dignity. He stated that human dignity supersedes the state's power to impose punishment, as such penalties subject individuals to a death that is forbidden by the principle of civilized treatment. Consequently, harsh and unusual punishments are prohibited by law because they are inhumane and uncivilized. He emphasized that when the state punishes, it must respect the dignity of its citizens as humans, asserting that a punishment becomes cruel and unusual if it fails to align with human dignity (٢٣).

The history of legal condemnation extends to barbaric punishments that involve torture, such as extreme pain and physical restraints. The condemnation of these punishments arises not solely from the inflicted pain but from their nature of treating humans as mere objects rather than beings with dignity. Even the most despicable criminal retains their inherent human dignity (٢٤).

In instances of botched executions, such as those by electrocution, even unintentional failures can render the punishment and its associated torture humiliating and unacceptable, as Judge Brennan argues, because they violate human dignity. He contends that the Eighth Amendment prohibits cruel and unusual punishment in modern society, reinforcing the idea that punishments should not degrade human dignity (٢٥).



These judges maintain that the state must refrain from applying the death penalty, especially in American society, which strongly upholds the sanctity of life. They argue that capital cases should be treated as unique due to the profound impact of the death penalty on the judicial process, which is unparalleled by any other punishment due to its severity and the psychological and physical pain it inflicts (٢٦).

Moreover, the psychological torment endured by those sentenced to death is significant. The anticipation of execution leads to intense psychological distress during the prolonged wait between sentencing and execution. The California Supreme Court has noted that the execution process often dehumanizes individuals to such an extent that it constitutes psychological torture, with the descent into madness beginning during the waiting period for execution (٢٧).

In response to proponents of deterrence theory, these judges argue that the assertion by some states that capital punishment is necessary to prevent future crimes is flawed. They point out that if an individual poses a threat to society, law enforcement can keep them incarcerated to mitigate that risk. Thus, they argue, individuals can be isolated from society, reducing danger as long as they remain imprisoned (٢٨).

When deterrence advocates claim that the death penalty deters potential criminals, these judges contend that this argument lacks solid evidence. There is no conclusive proof that the death penalty serves as a stronger deterrent than long-term imprisonment. Rational individuals contemplating murder do not face immediate death but instead a distant



possibility of execution, making the threat of death less compelling than the immediate risk of long incarceration (٢٩).

Nevertheless, not everyone agrees with these judges' views. Proponents of utilitarianism, like Steven Goldberg, argue that society has a fundamental responsibility to support the death penalty for genuine murderers to prevent innocent victims from falling prey to such criminals. They assert that if society is convinced of the necessity of the death penalty, they bear the responsibility for executing these criminals and, in doing so, protect innocent lives. Conversely, if society is swayed against the death penalty, they risk being responsible for the deaths of innocent people (٣٠).

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يرى بعض فلاسفة الأخلاق في الفكر الغربي المعاصر أن عقوبة الإعدام ليست رادعة لمرتكبي جرائم القتل للعدول عن ارتكاب هذه الجريمة، لأن القاتل يقتل ضحيته وهو يدرك تماما أنه سيتعرض لعقوبة الإعدام، ويرى فريق آخر من المفكرين ورجال القضاء أن عقوبة الإعدام تحمل من قوة الردع ما يكفي لردع كل من يفكر في ارتكاب جريمة القتل، ويرى آخرون أنه يجب علينا أن نستبدل عقوبة الإعدام بمنظومة الإصلاح أو إعادة التأهيل وهو الطريق الأمثل لمنع جرائم القتل، فالعقاب والسجن لفترة محددة قانونا يعمل على تهذيب سلوك المجرم ويحوطه إلى شخص مطيع لقوانين المجتمع مستقبلا. من خلال هذه الرؤى المختلفة، يناقش هذا البحث مدى صلاحية عقوبة الإعدام لردع الجريمة وتحقيق الأمن والأمان في المجتمع.

الكلمات المفتاحية:

عقوبة الإعدام – نظرية الردع – النظرية الوقائية – التكافؤ الوظيفي – نظرية الإصلاح

وإعادة التأهيل - نظرية الجزاء - المدرسة النفعية.