Case Report

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A Review of Ethical, Moral, Medical and Legal Underpinnings of Capital Punishment and Its Impact to Society

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ABSTRACT

The objectives of this paper are 1) to define capital punishment, death penalty or execution in American Justice System and distribution of practice of capital in the United States 2) to explore the ethical, moral, medical, and legal underpinnings in Capital Punishment 3) to provide four cases of Capital punishment. The method was a review of literature related to the topic. The discussion provided intuitive insights that are good cognitive stimuli for purposes of discussion. Conclusion is the review of ethical, moral, medical, and legal underpinnings provided better understanding, better decision-making, and the realization that a human individual is sacred, and at the same time, placing interest of the common good of society.

Keywords

Death penalty, Human rights, Criminal justice, Social justice, Human dignity.

Introduction

Capital punishment, also called death penalty or execution [1] carries some controversies to its underlying ethical, moral, medical and legal underpinnings which needs a careful review in this paper, especially that the stance of each state in the US varies. To illustrate, of the 52 jurisdictions, 27 states, the federal government level and the Military jurisdiction legally practice capital punishment, while 23 states and Washington DC have abolished capital punishment. A legal death penalty in 27 States (Alabama, Arizona, Arkansas, California has an executive execution pause/moratorium, Florida, Georgia, Idaho, Indiana. Kansas. Kentucky, Louisiana, Mississippi, Montana, Nebraska, Nevada. North Carolina. Ohio. Oklahoma. Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Wyoming) as well as at the Federal Level and US military offenses, exercise Death Penalty in their jurisdictions. Capital punishment is abolished in 23 States (Alaska, Colorado, Alaska, Colorado, Connecticut, Delaware, Idaho, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New Jersey, New Mexico, New York, North Dakota, Rhode Island, Vermont, Virginia, Washington, West Virginia, Wisconsin) and in Washington, DC [2].

The judicial order imposing this penalty is called, **death sentence.** The act of conducting the sentence is known as **execution**. Crimes considered as capital offenses deserve Capital Punishment. Examples of capital offenses include. 1. The murder of Law Enforcement officer 2. Capital crime committed by an alien present illegally in the country. 3. Murder or unjust killings of innocent victims and violation of more severe crimes and thus can be accompanied by harsher penalties.

Morally, capital punishment may be traced back to Adam and Eve [3], our first parents who violated the order of God not to eat the forbidden fruit of the forbidden tree in the middle of the Garden of Eden. Their violation was serious with the interference of Satan in the form of a Serpent who tempted Eve, and she subsequently tempted Adam who ate the forbidden fruit. As a result, they suddenly found themselves naked, conscious of their shame and guilt that led them to hide in darkness behind the bush. At this point, the loving God called and pursued them. Adam did not

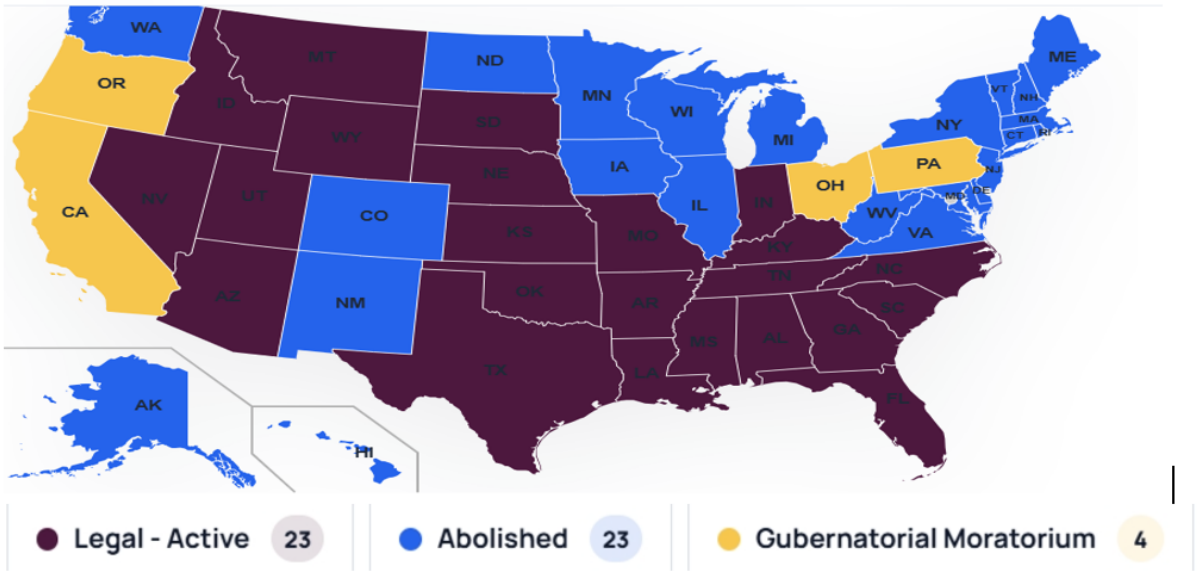

Figure 1: Death Penalty by State. 23 states in dark red actively apply the death penalty. 4 states in yellow — California, Ohio, Oregon, and Pennsylvania — retain it in law but have executive holds on executions. 23 states in light blue have abolished capital punishment; Michigan was first in 1847.

accept his own accountability and excuse that Eve had him eat the forbidden fruit. Eve also did not acknowledge her own sin and pointed the serpent to cause her to violate the God's order not to eat the forbidden fruit. Adam and Eve serious offense of original sin caused the entry of death penalty in them and entire humanity. Their death was not in real time but in the latter time with their agony of painful labor of pregnancy by Eve and grueling work on the ground by Adam. This is the consequence of the serious disobedience of the Law, God who is the Supreme Legislator.

Medical underpinnings have much to do with the human body. If the body gets corrupted, this leads to extreme spread to the entire body causing its demise. For example, a necrotic diabetic foot if not medically intervened can spread septicemia and the recommended medical intervention is amputation of the necrotic diabetic foot. Society is looked upon as a body, the Body of Christ. When one member of the body is corrupted, like a dangerous criminal in society, it is lawful to support the decision of execution.

The ethical underpinnings would be illustrated by Hippocratic Oath on Medical Practice with the oaths of doing no harm, beneficence, and non-maleficence. So, if a physician is called to the end of life by execution of a criminal, the physician who will administer the lethal injection might feel so incongruent to his Hippocratic Oath which is life preservation. This physician may be tormented by the conflicted action of execution of a criminal. For example, the execution of a criminal in Arizona by lethal injection has become a huge controversy, because the criminal survived after one injection administered. As a result, a series of lethal injections was administered, that now is intentional, even when the criminal's life persisted after 15 attempts.

The legal underpinnings have to do with conducting the verdict of death sentence as judicial order after the court trial of the criminal. The clamor of the spectators or public society demands accountability and rarely acquittal. "You do the crime; you do the time." to be executed. Legal decisions operate on the principle of hierarchy of Law, from Human Law to Divine Law, to Natural Law, and to Eternal Law [4].

Currently, we have the example of pending execution by firing squad, approved by US president Donald Trump. The verdict of execution arrived from court martial of Army Psychiatrist Nidal Hasan. How will this impact the military, the country, and the entire world? This is something to reflect on because we have ongoing war in the Middle East. If a less lethal penalty will be decided upon, this might also be lawful, especially that Major Hasan is medically debilitated waste down and wheelchair bound with remote potential to harm or kill others again or even escape from criminal confinement. Execution by firing squad in public audiences might spark a revolution or a riot in the country or in the world. A thoughtful and careful consideration is prudently necessary to make better decisions.

Cases of Capital Punishment

Case 1

St. Thomas More is beautifully depicted in the movie entitled, "A Man for All Seasons." [6]. He has risen to the heights of being a successful scholar, an honorable statesman, a good family man, and a devout man of God. In his formation, he became a good Lawyer, justly and advocated for his clients and became famous the by truths of his many writings. So much so that his popularity did not escape from the attention of King Henry VIII of England who was perturbed by his married life at that time. King Henry VIII recognized St Thomas More to be a good strategic solution for approval support and blessings for the king's desire to change

his woman at the king's convenience and pseudo legitimacy with St Thomas More's agreement.

St. Thomas More immediately recognized the proposed law of Act of Parliament to be an unjust law. First, it is not general for the common good. Second, it is private and for the privileged at the convenience of the King alone. Third, the King is acting way above his authority, not in conformity with Natural Law. The King could not accept that he has no son, no heir as his wife Catherine is barren, and he does not consider her as his Queen. The king wants to bypass the proper divorce process and the proper approval by the Pope in Rome. With the disobedience of the King and false pretense he tried to convince St Thomas More to approve the King's interest pertaining to his marital situation. This is an unjust law, and St. Thomas More knew better that this unjust law does not bind him in conscience. So many coercive forces were acted upon St. Thomas More of being imprisoned in cell, deprived of seeing his family, and only saw his family with King's instructions that family to convey to St. Thomas to give in to the King's desire. St Thomas More stood his ground and was ultimately executed beheaded by guillotine.

Case 2

The Army Psychiatrist Major Nidal Hasan opened fire at a military base in Fort Hood, Texas, killing 13 soldiers and injuring over 32 soldiers [7]. He declined to be assisted by military counsel and requested his preference to be provided with civil counsel. His court hearings are non-viable, adding to confusion, and significantly a waste of time as he presented himself alone without military counsel. This is a capital crime killing and harming innocent military victims. The Model Penal code insanity defense must have failed the criteria, but this was not concretely supported due to his resistance to be represented by a military counsel. Was he suffering from some element of grandiosity that he can represent himself in court without need of military counsel? Was he suffering from paranoid delusion that he cannot cooperate and trust to work with a military counsel? The verdict is death sentence.

A loss of one is a loss of all. Yet it is lawful to remove a criminal by execution with capital crime. Was there further deterioration of his mental health functioning? Did he receive adequate psychiatric treatment while in custody of imprisonment? Lack of capacity to consent for treatment and lack of capacity to cooperate with a military counsel may be a strong indication of mental illness, whether it be based on paranoia, grandiosity, religious delusions, disorganized thought and disorganized behavior. This is a sad outcome of a particular soul, supposedly a moral agent being a Psychiatrist and a Military officer, although he stood for his belief.

Case 3

The execution on Dec 15, 2014, in Phoenix, AZ criminal Joseph Wood [8] for murder had a prolonged process that lasted nearly two hours and involved 15 lethal injections with media witnesses reporting that Wood gasped for air for over one hour [8]. The procedure drew intense criticism as a possible "botched" execution. Executions have been put on hold multiple times in Arizona's History, as the state prepares for its first execution since 2022. The controversy, Arizona Attorney General gave statement that the execution was not botched and that Wood did not have a prolonged suffering.

Case 4

Dr. Jose Rizal, the national hero of the Philippines [9] was instrumental to the enlightenment of the Filipino masses through his two novels he authored, the "Noli Me Tangere" [10] and "El Filibusterismo" [11] depicting the 300 years of Spanish colonization, oppression, and corruption with his controversial novels, He was put to custody by Spanish government and then was exiled to Dapitan, Philippines. The Spanish government considered him to have a capital crime, and he was executed by firing squad in Luneta, Manila, Philippines on Dec 30, 1896. This event triggered the Filipino Spanish revolution for which the Filipinos were victorious upon conclusion of the war.

Dr. Jose Rizal is a physician trained in Madrid and Heidelberg who specialized in ophthalmology and operated his own mother's eyes. He was a sculptor, a painter, a poet and a linguist. His martyrdom drew its moral authority as he fought the battle through pen and paper not by violence with weapons or arms**.**

Discussions

Our current social situation is plagued by increased criminal activity with many shootings, unjust wars, in our cities, states, and different countries attributed to many contributing factors. The presented case scenarios are good cognitive stimuli for lively discussions pertaining to ethical, moral, medical and legal underpinnings of Capital Punishment.

Human life is sacred because of its beginning involving the creative action of God, as related to Adam and Eve [2]. Special relationship with the Creator should be aimed for by each person. No person has the right to directly destroy an innocent human being. Presence of vices such as anger, envy, pride, disobedience are ingredients of sinful criminal acts such as murderous violence. The fifth commandment: "Thou shall not kill, and whoever kills shall be liable to judgment" [5]. From time immemorial, man has become the enemy of his fellow man. A biblical scripture is Abel's murder by his brother Cain [12] due to presence of anger and envy. Then the voice pf brother's blood is crying from the ground. The deliberate murder of an innocent person is gravely contrary to human dignity, to the Golden rule, and to the holiness of the Creator. As human life is sacred, the execution of a criminal remains in the love of God, exemplified by the Jesus giving final blessings while facing His death in the cross flanked by two thieves, one was arrogant and mocked Jesus and the other one was humble with contrite heart saying, "Jesus remember me when you when you come into Your Kingdom"[13]. Simple acts of kindness, prayers, blessings when in close proximity to someone who is being executed make a huge difference to benefit the poor soul of a criminal.

The Law pertaining to killing an innocent person is universally binding. Otherwise, an unjust law is not binding. Executions based

on unjust law give rise to saints, martyrs, and heroes The cases of St. Thomas More, and Dr. Jose Rizal are worth mentioning because their blood planted the seed of love and grew into fruition impacting the society positively. The voice of your brother's blood is crying to God from the ground. Justice prevails.

Conclusions

The recognition that increased criminal activity cannot be ignored. It remains a dilemma to encounter the controversies of capital punishment, death penalty or execution. For better decision making, it is relevant to have a meticulous review of ethical, moral, medical and legal underpinnings of capital punishment and its impact on society. Capital punishment, death penalty, execution existed for many years since Human History.

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