

The Death Penalty in The United States and Canada

How would you feel if you were faced with the responsibility of sentencing someone to death? Not for just any crime, but for a serious crime such as murder. The possibility of being executed for committing certain crimes in certain places is, indubitably an issue of major concern that has, for years, burdened courts around the world.

Societies in all parts of the world hold the accountability of taking the life of another to the highest degree. Just how that accountability is handled varies substantially from one culture to the next, even if that next culture is as close as the next state, or the next country. From the earliest times of recorded history, virtually every culture has believed in severe form of punishment and/or retribution similar to the familiar "*A life for a life, an eye for an eye*" theory. Therefore, the most common punishment for this type of offense has historically been *execution*. Aside from countless other forms of punishment, the methods of execution are nearly as varied as the cultures themselves. But precisely how should these punishments be determined? And under what circumstances should they apply? Who should have the authority to decide that the life of a perpetrator should end as the result of another's death? Does *anyone* (or any governmental body) have that right?

The earliest punishments for most societies were almost always executions of some method. However, in more recent times, there has been a wave of cultures and nations that have abolished any laws or practices to execute, even for the most heinous offenders. In this arena, The United States stands as a rare example of modern countries that are still willing to execute criminals of this degree. Even within the United States, there is a division. In addition to the federal government and the US military, there are thirty-eight states that will still execute criminals and only twelve that no longer execute criminals.¹

Today, most countries no longer execute criminals. There is an interesting note here. The *reason* why some countries no longer execute may be in simple practice and not by the passing of laws. A good example is Russia. Although they still retain the statutes enabling the possibility to execute, Russia has not executed anyone since 1996.² This differs from Canada where a particular statute was actually voted into law. On July 26th 1976 Canada's House of Commons voted on bill C-84. The bill, introduced by Prime Minister Trudeau, narrowly passed with a vote of 131-124.³ At the time of this vote most Canadians favored the death penalty. Even though the majority of Canadians still endorse the idea, those supporters are slowly eroding in numbers as implied in 1987 by a vote in Parliament in which they voted 148-127 against reinstating it.⁴ (It should be noted here that Bill C-84 was to abolish the death penalty for most crimes, not all of them. In 1998, Canada completely abolished the death penalty for all crimes.⁵)

In the United States during the 1960's and into the early 1970's, there had been a downswing of both execution numbers and public support of the death penalty until the historic case of *Furman v. Georgia*. The Supreme Court ruled that the death penalty was unconstitutional only in the manner, in which it was applied and *not* in the sentence or punishment itself. (It, like the Canadian law outlawing capital punishment, barely passed with a vote of 5-4 by the Justices.) This ruling allowed for each state to now modify its individual laws in order for sentences to once again include execution.⁶ For more than four years, the US had no executions until another historic case came before The Supreme Court. In *Gregg v. Georgia*, the Supreme Court ruled that as long as the sentence of death was administered with great care, the sentence of execution would be allowable. They solidified this ruling with a wider margin (7-2) than they did in *Furman*.⁷ On January 17th, 1977, Gary Gilmore became the first person in the US to be the recipient of the new law by being executed by firing squad in Utah.⁸

Throughout history there have been countless ways used to execute a person. However, in the world today there are currently seven primary methods of execution.⁹ These are beheading (whether by guillotine or other method), stoning, electrocution, gas chamber, hanging, lethal injection and shooting (firing squad). In the US, only the latter five of those methods are utilized.¹⁰ Whereas, hanging was the only method used in Canada.¹¹

The differences in how our two seemingly similar countries have dealt with capital punishment are interesting. Depending on which study one reviews, it may appear that

citizens in both countries have traditionally had similar views on whether or not the death penalty should be allowed.^{12,13,14} (Citizens in both countries have always had the majority in favor of the death penalty.) Even though it was the US that first made it unlawful to condemn an offender to death, we reinstated that ability at almost the same time that Canada first outlawed it. The path in which each became illegal is different though. Canadians allowed their politicians to decide the matter for them. In fact, the leader of the *New Democratic Party*, Ed Broadben, was even quoted as saying that, "... (he) believed such matters (were) too important to leave to popular opinion and should be decided by fully informed elected representatives".¹⁵ In contrast, our citizens vote on the issue. If there appears to be any potentially unlawful or immoral issues within the law, then we have the cases brought into the courts to have those issues addressed, as was the case with both *Furman v. GA.* and *Gregg v. GA.*

With the death penalty now forbidden in Canada, there is little to debate there as far as how humane the procedures were (or were not) handled. Besides, hanging was pretty well scientifically formulated by the latter part of the twentieth century to be administered without much contention. In the US however, there is still much debate regarding the current methods in practice. Currently, the largest concern is the use of *lethal injection*. While it has long been considered the most humane method, there have been recent negative developments to that procedure as well. The most prevalent issue is a double-edged sword. Firstly, under their code of ethics, doctors are prohibited from participation in a deliberate death. Secondly, a person with medical knowledge is most helpful for a lethal injection to proceed smoothly. In the absence of

a medical doctor, there are too many things that can go wrong. Some examples are that the orderlies cannot find an adequate vein, perhaps they administer an improper amount of the lethal drugs, use clogged or kinked tubes or a myriad of other things.¹⁶

There is much passion on both sides of the capital punishment issue. These include, but are definitely not limited to: the costs of a death penalty case, the right (or lack thereof) of a government to put someone to death, the deterrence of others in committing similar crimes, the humanity of any particular procedure, religious beliefs and of course the inevitable SNAFUs that are bound to happen. There is a seemingly outrageous cost to execute an individual, but these figures include the larger amounts of money initially put into a trial case, the more expensive types of incarcerations required and the long complicated appeal process. And who determines that a law should be made that would allow for the deliberate death of an individual when our laws were written to protect human life? There are extremely mixed and contradictory studies on the effectiveness of the death penalty being a good deterrent. And really, just how humanely can you kill another human? (But *should* it be humane or should that concern even be considered?) The issue of religious beliefs of the individuals participating also may be of concern since most religions prohibit killing. Those participants may include the lawyers, court clerks, judges, bailiffs, correctional officers and even the taxpayers. Lastly there is the "stuff" that inevitably may "happen" (or does not happen as it should). These are all important issues, but certainly issues that would be best reserved for discussion beyond the scope of this article.

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