

CAPITAL PUNISHMENT

1. Introduction

All societies have rules, values, ethics and morals to which its members must comply to. If members don't comply sanctions are introduced and enacted unto them. Punishment is a form of a sanction and can take on many forms and must have an unpleasant effect but can only be administered if an individual is found guilty of an offense and it should be imposed by the rightful authority. (Joubert & Rostoll, 2012:49) In the term or concept, capital punishment, the word capital refers to the head of an individual as criminals were frequently executed by severing their heads from their bodies. (Joubert & Rostoll, 2012:52)

Capital punishment is a form of punishment and is also known as the death penalty and for many years was the preferred punishment for capital offenders and in some nations this practice is still in use and this causes it to be one of the most contentious issues in criminology as well as public policy. (Rosenfeld, unknown:3)

2. Different views on Capital Punishment

Different views on capital punishment have emerged due to the different opinions regarding the ethical aspects surrounding this form of punishment as well as the conditions and the criminal actions leading to such a punishment. (Joubert & Rostoll, 2012:52)

The different views on capital punishment are:

- 1. Retentionism/Retributionism:** Refers to the view that capital punishment should be kept legal and made legal in countries which don't use it as part of their punishment system. (Sarat & Boulanger, 2005:34) However retentionists tend to disagree on the conditions which justify the death penalty but agree that it is sometimes morally justifiable.
- 2. Reconstructionism:** This view holds that for all major, or referred to as capital crimes or offences which include murder and rape, capital punishment must be used as the punishment of choice. (Moreland & Geisler, 1990:107)
- 3. Abolitionism/Rehabilitationism:** Believe that this form of punishment is never morally or ethically justifiable and should therefore not be used as means of punishment for any crime committed. (Joubert & Rostoll, 2012:52)

4. Capital Punishment in South Africa

Capital punishment in South Africa was used as punishment until 1995. The abolition of capital punishment in South Africa was due to the new regime which is known as the African National Congress that took over the governance of South Africa who introduced a new constitution. The South African Constitutional Court ruled on the basis of the new constitution's view on the right to life that capital punishment should be prohibited as it is against the constitution. (Zimring, 2004:37) Thus the position held by South Africa on capital punishment can be described as abolitionism.

5. Biblical Perspective

The Bible states in its account of the night in which Jesus was captured before His crucifixion and His disciples wanted to fight their way out of it that those who take the sword will also be killed by the sword, this is clearly an affirmation of the use of capital punishment. Jesus died for our sins, including murder and other capital offences, in order for us to get forgiveness by God but this cannot be used as an excuse for not being punished and for following Biblical laws as Jesus Christ and His death was not to abolish the law but to fulfil it. Thus Christianity views reconstructionism as the appropriate form of punishment for capital crimes based on the words of Jesus; those who take the sword shall be killed by the sword.

References

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