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CAPITAL PUNISHMENT

There is a gradual trend around the world to abolish capital punishment. But it has not been a smooth progression. Overall, there has been a change of attitudes but there have also been occasions when there has been public demand for its reintroduction.

The United States is often seen as a country that leads in the imposition of the death penalty in western countries. For example, it was, until a few months ago, one of the few countries that executed people for crimes committed as children. Six countries did so: five were Islamic and the sixth was the US. The Supreme Court has now stopped that.

But the death penalty has not been a constant factor in American history. Immediately after the American War of Independence (1775-1783), some state governments in the new nation removed the death penalty for many crimes. This was a way of showing how the new enlightened, progressive US was different from the imperial country, Britain, from whom it had just broken away.

Britain, of course, had the death penalty for many crimes (not just murder). The punishment did not stop the high rate of crime and so the new US state governments thought they could develop better ways of handling criminals.

In the 19th century, those state governments that did still use the death penalty banned public executions. In 1846 the Michigan state government was probably the world's first modern government to remove the death penalty entirely.

It has been argued that if the American Civil War (1861-5) had not come along, then the death penalty may well have ended in the entire country. The US, on this argument, would have been one of the world's first countries to do so.

Instead, the Civil War was the most brutal war in American history. The national sense of emergency required drastic measures to maintain order and punish people. Attention after the Civil War shifted from the movement towards abolishing capital punishment to finding better means of carrying it out. Hanging was deemed to be an inhumane method. Towards the end of the 19th century, for example, the invention of electricity enabled the introduction of the electric chair as a more humane way of executing people.

By the beginning of the 20th century, fresh moves were made for the abolition of capital punishment. Many state legislatures, influenced by new scientific notions about the origins of crime, began to reduce the use of the death penalty. Between 1912 and 1919, the number of executions fell from 161 to 65 per year.

But this movement ended in the early 1920s. The Prohibition Era (when the US Constitution was amended to stop the sale of alcohol) saw a dramatic increase in crime associated with the illegal sale of alcohol. Some of the returning troops from World War I made use of their new weapon skills.

There was a dramatic increase in crime and gangsterism. There was a similar increase in the number of executions. 1935 was the record year, with 199 executions. The next phase of anti-capital punishment measures came after World War II. There was concern that a large number of people executed were African Americans – far more than their number in the population overall would suggest.

Prosecutors noticed that it was now often more difficult to secure a conviction if the punishment would be death. Many prosecutors found it expedient to support the abolition of the death penalty in order to get more convictions.

A jury with doubts about the guilt might find the accused not guilty if the alternative was the death penalty. If the accused simply faced a long prison sentence, then the jury could be reassured that any subsequent evidence to show that the accused was in fact innocent, would mean that the accused would still be around to be pardoned.

In the 1960s few prosecutors asked for the death penalty. Between 1967 and 1972 there were no executions in the US.

The death penalty is back as a widespread punishment in the US because public opinion has fears about the apparent high level of crime. As in the Civil War era, when people feel anxious about their personal security, they feel reassured that the death penalty is around to protect them.

No major US politician is advocating the abolition of the death penalty. There is now widespread concern about “law and order”. The figures for crime seem to indicate, if anything, a decline in many forms of crime. But there is a public fear about crime and so it is too risky for mainstream candidates to advocate the abolition of the death penalty.

The Australian pattern is also one of people changing their minds about capital punishment. Since the formation of the Commonwealth of Australia in 1901, a total of 114 persons have been executed. The last person to be executed was Ronald Ryan, who was hung at Pent ridge Prison, Victoria in 1967.

However opinion polls indicate broad support for capital punishment. Whenever a particularly vicious crime is committed, members of the public, police, and the media reopen the debate.

But the politicians generally are opposed to its reintroduction. Capital punishment in Australia – as distinct from the US – is a rare instance of where politicians do not go along with public opinion.

The argument for capital punishment is often linked with the belief that capital punishment deters murder. The statistical evidence for this belief is unclear.

In Queensland, for example, in the decade prior to the abolition of capital punishment (1912-21), there were 131 murders, whereas in the decade following abolition (1923-32) there were 129 murders. Therefore there is no clear link between the presence of capital punishment and the deterrence of murder.

Most murders in Australia are reported to the police by the murderers. Most murders are not like Agatha Christie detective novels, where there have to be clues to find the murderers.

Instead, most Australian murders are done in a fit of rage, with little or no premeditation. Often the victim knows the murderer. There are, for example, a domestic argument or hotel brawl and one person assaults the other. They may not have been intending to commit murder.

It all happens so quickly. Capital punishment would not stop this type of crime. Politicians recognize this and so they have been unwilling to reintroduce capital punishment – despite public opinion.

Now that Australians are being executed overseas for drug charges, there may be a reduction in Australian public support for capital punishment. Clearly the threat of capital punishment does not deter people from carrying out that type of crime, either.

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