

## **The Changing Public Opinion of the Death Penalty**

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by

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## Discussion of Popular Opinion and the Death Penalty History

Capital punishment has, in recent history, become a controversial topic in the United States. Capital punishment can be traced back to centuries ago and is the process of sentencing convicted offenders to death for the most severe crime and carrying out that sentence. Today, prisoners sentenced to death and awaiting execution in prison are on 'death row.' Death row was originally a slang term that other inmates created for the place where inmates awaiting death stayed, and it became a term that is widely used today ("Capital Punishment"). Capital punishment reached an all-time high in the 1990s but has slowly started to lose popularity with the public ("Facts About the Death Penalty").

The death penalty has a deep-rooted history in law and the Church, but recently, changes in the law and the Church's teaching have caused a shift in public opinion. Over the last few decades, public opinion has varied in support of capital punishment. It wasn't until the late 1990s that support for the death penalty began the downward trend in support that continues today. The Church has recently taken a stance against the death penalty and its beliefs can be seen in the *Compendium of the Social Doctrine of the Church*, along with encyclicals written by several Popes. The United States Conference of Catholic Bishops also defends the dignity of the human person which solidifies the church's defense of life and the dignity of the human person. The Church's stance has resulted in less public support for capital punishment, especially among Catholics. Albert Camus makes arguments against the death penalty that differ from the Church's reasoning in his essay, *Reflections on the Guillotine*. Camus's essay helped to give people who were not religious a reason to be against the death penalty. This has resulted in the number of people sentenced to death and crimes that have the punishment of death to diminish. These changes can be seen in Supreme Court cases regarding the 8<sup>th</sup> amendment.

New studies have shown that the death penalty does not deter crime effectively. Because the death penalty does not deter crime, the question arises of whether or not capital punishment should continue. While capital punishment was once considered an effective form of punishment, over the last 20 years, public opinion has shifted drastically, leading to a decline in sentencing of the death penalty. The Death Penalty Information Center data shows that in 1999, 98 people were executed on death row, while in 2022, only 17 were executed. Currently, in the United States, only 27 states allow capital punishment. Many states have outlawed capital punishment because of arguments that it violates 8<sup>th</sup> and 14<sup>th</sup> amendment rights and because of a change public opinion since capital punishment has been shown to be ineffective in deterring crime. According to the Death Penalty Information Center, 88% of experts agree that the death penalty is not an effective deterrent to crime (“Facts about the Death Penalty”).

There were 20,000 homicides committed in 1985; of these, only 300 resulted in the death sentence. Of those 300 people, would the death penalty have deterred them? Dr. Ernest Van Den Haag, an American sociologist, says most likely not. Haag believes that most criminals who commit violent crimes like murder are mentally ill and do not consider the consequences of their actions. Therefore, a harsh consequence will not deter them because they do not care about the consequences (Haag). More recently, a 1996 study by Michael Radelet and Ronald Akers in *The Journal of Criminal Law and Criminology* shows that 87% of experts answered no to the death penalty being a deterrent. Eighty-six percent of those experts said abolishing the death penalty would not affect the murder rate (Radelet & Akers). Most recently, Dr. Jonathan Groner, a professor at The Ohio State University, agrees with Haag. Groner believes that the psychological mindset of criminals does not consider the consequences of their actions at the time of the crime. Groner writes that most violent crimes are crimes of passion, and while committing these crimes,

the criminal is not worried about punishment. Groner says deterrents work for crimes where the penalty is "obvious and immediate," but that is not the case of capital punishment. Groner believes that the murder rate will only be affected by addressing the environmental and social factors contributing to violent criminals' mental health and lives. Because a majority of criminals on death row have lived in poverty and a very high percentage have mental health issues, Groner says that the only thing that will ever help to lower the murder rate is better access to health care and improving socioeconomic health ("Experts on Why the Death Penalty Does Not Deter Murder").

The Death Penalty Information Center brings to light statistics about capital punishment. Not only does the death penalty not deter crime, but 61% of Americans surveyed chose another sentence other than the death penalty for criminals. The death penalty is also very costly; In the state of Florida, each execution performed costs about 24 million dollars. In California, capital punishment has cost the state 4 billion dollars since 1978. In addition to the cost of the death penalty, many studies have shown that race plays a significant role in the outcome of a death penalty case. In the state of Washington, black defendants are three times more likely to receive the death penalty than white persons who committed a similar crime. In Louisiana, the odds of receiving the death penalty were 97% higher when the victim was black rather than when the victim was white ("Facts about the Death Penalty").

The first established laws for capital punishment were written in the 18th century B.C. in the Code of King Hammurabi where the death penalty was consequence for 25 different crimes. Capital punishment continued into the 14<sup>th</sup> century B.C. in the Hittite Code and the 7<sup>th</sup> century B.C. Draconian Code of Athens, where punishment for any crime was death. Methods of execution included beating to death, crucifixion, drowning, burning alive, and impalement. By

the 10th century A.D., hanging was the most common form of execution (“Early History of the Death Penalty”).

Capital punishment had been around for centuries and, at one point in time, was expected for almost any crime. However, in the 11th century A.D, in England, William the Conqueror abolished the death penalty except for during times of war. The abolition of the death penalty only lasted for about 300 years. In the 16th century, Henry VIII reinstated capital punishment and killed 72,000 for petty crimes. These crimes included marrying a Jew, not confessing to a crime and treason. By the 1700s in Britain, 222 crimes were punishable by death, including stealing and cutting down a tree. Strict laws led to reform, and by 1800 only 100 crimes were punishable by death in Britain (“Early History of the Death Penalty”).

Capital punishment was brought to the colonies because America was built by European settlers. The first execution recorded in the United States was Captain George Kendall in the Jamestown Colony in 1608. He was executed for being a Spanish spy. By 1612 in the colonies, the death penalty was the punishment for almost all crimes. Capital punishment stayed this way for nearly 200 years until the 1800s when many states reduced the number of capital crimes that were punishable by death (“Early History of the Death Penalty”). In 1847, Michigan became the first state to abolish the death penalty for all crimes except treason, but by the 1930s, the execution rate was the highest it had ever been in the United States; about 167 people per year were executed on death row. Support of capital punishment reaches a new low of 42% in the 1960s. Because of low support in the 1970s and 80s, many states started eliminating capital crimes. In the 2000s, death penalty cases began to dwindle even more (“History of the Death Penalty”).

The Supreme Court does acknowledge that there are cases where a person sentenced to death is innocent but argue that the small percentage is insignificant. The Innocence Project believes differently. The Innocence Project is an organization whose mission is to free innocent people who are incarcerated, including those on death row. As of December 2020, The Innocence Project has exonerated 21 defendants on death row using DNA to prove their innocence. The 21 people exonerated by the Innocence Project are not the only ones ('Research Resources'). Since 1973, 190 people on death row have been exonerated ("Innocence").

There is no way to tell how many people who have been executed on death row have been innocent. However, our justice system is flawed, and many defendants have maintained their claim of innocence even until they were executed. Although there is no exact number of innocents who have been executed, the Death Penalty Information Center keeps a list of executed individuals who are widely believed to be innocent. Their list contains 20 individuals whom they can say were innocent with almost 100% certainty. These cases are examples of coerced confessions, bad police work, and ignoring evidence proving these individuals' innocence ("Executed but Possibly Innocent"). Out of the 1500 people executed in the United States, those 21 wrongfully executed defendants make up a little over 1% of those executed. Although it is a small percentage, 20 innocent people were killed for crimes they most likely did not commit.

### **A Summary of Catholic Social Teaching on Human Dignity**

Although capital punishment used to be the norm and was once supported by the Catholic Church, the Church has recently changed its stance, resulting in dwindling support of the death penalty among Catholics. The Catholic Church has a particular understanding of the dignity of the human person, which has led them to be against the death penalty. One must fully understand

the dignity of the human person according to the Church to be able to understand why it is against the death penalty. This understanding of the human person can be found in the *Compendium of the Social Doctrine of the Church*.

According to *the Compendium of the Social Doctrine of the Church*, the Church is a pilgrim people guided by Christ who wants to speak to all nations and all peoples. The Church tries and wants to bring salvation and genuine freedom to all. The Church hopes to help people understand their transcendent dignity and hopes to show people how to show God's love through relationships and become authentically human. The Church wants to explain the truth of man's place in society and is a sign of God's love for mankind (*Compendium of the Social Doctrine of the Church*, par. [1-11]).

The Church believes that every authentic religious experience leads to a person being able to see some aspect of God's face and that one can experience some aspects of God's face by following the ten commandments. The ten commandments indicate the surest way of life to live in freedom from sin. The ten commandments are a privileged expression of natural law (*Compendium of the Social Doctrine of the Church*, par. [20-26]).

The Church believes that benevolence and mercy inspire God's actions, and this mercy is the key to understanding its actions. These traits became man in Jesus. Jesus' love is based on an intimate union with the Father. Jesus recognized his Father's love by modeling his actions after gratitude and mercy and becoming an example for his disciples. The New Testament reveals the love of the Father, Son, and the Holy Spirit. Through Jesus' actions, we can see that God is Father, and we are called by grace to become his children and brothers and sisters among ourselves (*Compendium of the Social Doctrine of the Church*, par. [28-31]).

The revelation in Christ of the mystery of God as Trinitarian love is the same as the revelation of a person's vocation to love. We must try to elevate all human relationships through the commandment of love. Loving one's neighbor as oneself is the most important commandment. It is not possible to love one's neighbor as oneself without taking into consideration the good of all people. This revelation sheds light on the personal dignity of the person and the depths of their social nature. The human person is called to discover the origin and the goal of his existence through love (*Compendium of the Social Doctrine of the Church*, par. [34-40]).

Christian revelation helps to shine a light on the identity and the destiny of the human person, and we can look to the book of Genesis to see the foundations of Christian anthropology. God gave men the gift of freedom and salvation. The human person must work to avoid being manipulated by the world. God has given us the freedom to choose; because of that, we can sin. Freedom involves the ability to decide between good and evil. The exercise of freedom implies a reference to natural moral law. In all cultures, natural law unites people through common principles. Personal and social life are threatened by sin. Nevertheless, we are saved by the grace offered in fullness in Jesus Christ. Salvation requires free response and acceptance by God's children. The salvation God shows his children makes the relationship that a person should have with God and his neighbors indissoluble. The inner transformation of the human person to conform to Christ is necessary for a transformation in our relationship with others (*Compendium of the Social Doctrine of the Church*, par. [44-48]).`

Jesus Christ is the Son of God who was made man and thanks to whom the world and man can attain their whole truth. The human person and his vocation transcend the limits of the created universe to find their full truth in Jesus Christ. The human person's ultimate end is God



himself, who has revealed himself to men. The Church and the community brought together by Christ are the sign and safeguard of the human person. The Church makes her priority service to the Kingdom of God by communicating the Gospel and establishing new Christian communities in order to save the person and show them salvation (*Compendium of the Social Doctrine of the Church*, par. [52-59]).

God redeems the individual human person and also the social relationships between them. Jesus Christ reveals that God is love and teaches that the transformation of the world is the new commandment of love. Jesus brought to earth the gift of redeeming love. The Church intends to help with the fundamental change of the world by pointing to the mutual love between human beings. God's promise and the resurrection of Jesus Christ give Christians the well-founded hope that there is an eternal dwelling place filled with love. The Church seeks to proclaim the Gospel and make it present in societal relationships between and among men and women. The Church wants to be with every man and woman and wants every being to know that everyone is unique and irreplaceable (*Compendium of the Social Doctrine of the Church*, par. [60-66]).

The Church's social teaching is an essential part of the Church's evangelizing ministry. The Church's social doctrine is a valid instrument of evangelization. The Church aims to help man on his path to salvation by being a teacher of faith and morals for mankind. Because of the relevance of faith and the Gospel, it is the Church's right to speak out on social injustice; the Church cannot remain indifferent on social matters. The Church's social doctrine was formed over time through numerous documents so that the Church could share its opinions on social issues. The Church's social doctrine is specifically theological and moral. This doctrine finds its essential foundation in the biblical revelation and tradition of the Catholic Church. The doctrine

states that faith and reason represent two critical paths of the Church's social doctrine. The doctrine states that faith effectively interacts with reason (*Compendium of the Social Doctrine of the Church*, par. [66-74]).

The Church's social doctrine avails itself of contributions from all branches of knowledge. The social doctrine involves a contribution to philosophy rather than theology. The Church's social doctrine's contribution to philosophy is essential and reliable because of its attentive openness to other branches of knowledge. The social doctrine belongs to the Church because it formulates and teaches it. The Church's social doctrine is presented as a work always in progress. Just as history is constantly changing and turning, so is the Church's social doctrine evolving. The Church does not close itself off but is always open to the human tradition (*Compendium of the Social Doctrine of the Church*, par. [76-78]).

In recent history, the Church has accumulated a rich doctrinal heritage. In the nineteenth century, the great social question involved the conflict between capital and labor. Pope Leo XIII wrote the first social Encyclical, *Rerum Novarum* in response. It became a document that inspired Christian activity in social settings. The Church's social doctrine today can be traced back to the ideas found in Pope Leo XIII's letter. The Church's social doctrine has evolved over time. Early in the twentieth century, Pope Pius XI raised his voice against European totalitarianism. Pope Pius XI wrote several letters and encyclicals voicing the Church's teaching against communism and antisemitism. His successor, Pope Pius XII, led the Church during World War II. Blessed Pope John XXIII led the Church as the world was rebuilding after World War II. In his encyclical *Mater et Magistra*, he focused on how the Church is called in truth, justice, and love to cooperate in building community. Blessed Pope John XXIII wrote other encyclicals addressing newfound problems in the world in the twentieth century, such as nuclear

warfare and the promotion of peace. The Second Vatican Council brought about *Gaudium Et Spes*, which shares the Church's understanding of its role in the modern world, addressing culture, economics, social life, marriage and family, politics, and peace (*Compendium of the Social Doctrine of the Church*, par. [87-96]).

The Second Vatican Council also released *Declaration Dignitatis Humanae*, which states the Church's teaching on the right to religious freedom. In the 1970s, Pope Paul VI returned to the social teachings of Pope Leo XII and his successor, Pope John Paul II, followed in his footsteps. one hundred years after *Rerum Novarum* was written, Pope John Paul II devoted his encyclical *Centesimus Annus* to *Rerum Novarum*. Pope John Paul II's encyclical showed an appreciation for democracy, freedom, and a free economy. All of the documents display the milestone from Pope Leo XIII's encyclical to the modern-day social doctrine of the Church. The social doctrine of the Church is spurred on by human dignity and pastoral concerns (*Compendium of the Social Doctrine of the Church*, par. [102-106]).

The Church's social doctrine also states that social life is an expression of the human person. The human person represents the heart and soul of Catholic social thought. The Church's social doctrine develops from the dignity of the human person. The human person is a creature of God made in the image of God. The likeness to God shows how man's existence is related to God. The relationship between God and man is reflected through the social nature of humans. The doctrine states that man and woman have the same dignity and are of equal value in the eyes of God and the Church because they are both made in the image of God. When man and woman are in a relationship, the dynamic seen is the image of God. The life of every human person is considered sacred and inviolable. The Church has a vocation to life in the presence of all other creatures. The Catholic social doctrine emphasizes the human person's dignity, which the

doctrine states should never be violated. All human life must be respected because all human life is possessed of a high dignity because every person is made in the image of God (*Compendium of the Social Doctrine of the Church*, par. [108-113]).

The principles seen in the Church's social doctrine are the heart of the Church's social teaching involving the dignity of the human person and the common good. These principles concern the reality of society as a whole. These principles should be appreciated and acted upon. The dignity of the human person and the common good are morally significant because they are the ultimate foundations of life in society. The principle of the common good is related to every aspect of life. It is "common" because it belongs to every person and is only possible to attain together. The common good remains at the service of every person and for the good of all people. It involves all members of society, and no person is exempt from it. Every person also has the right to enjoy the conditions of social life brought about by the common good—the responsibility for achieving the common good falls onto the state and the person. The government is responsible for harmonizing society and justice to ensure the common good (*Compendium of the Social Doctrine of the Church*, par. [164-170]).

As well as fundamental principles, the Church's social doctrine also mentions key values. The relationship between principles and values is that social values are an expression of appreciation for the moral good that the principles offer. The social values mentioned in the Church's social doctrine include truth, freedom, justice, and love. These truths are inherent to the support of the human dignity of every person. All humans have the duty to move towards the truth, respect the truth, and bear witness to the truth. Modern times call for an intensive educational effort in the quest for truth. Freedom is “the highest sign in man of his being made in God's divine image” (*Compendium of the Social Doctrine of the Church*, par. [199]). Freedom is

an expression of singularity and is respected when every member of society can fulfill their vocation. Freedom must also be expressed in the capacity that a person must refuse what is morally wrong. Justice is a value that accompanies the exercise of the corresponding moral virtue. Justice consists of a person's constant and firm will to give their due to God and their neighbor. Justice is based upon the choice to recognize the other as a person (*Compendium of the Social Doctrine of the Church*, par. [197-201]).

Justice is essential in modern society because the individual and social good depend on justice. Among the virtues, love is a deep bond that must be more fully recognized. Love is the highest and universal criterion for all social ethics. Love values truth, freedom, and justice, and it is how they are all born and grown (*Compendium of the Social Doctrine of the Church*, par. [202]).

The Church's social doctrine includes many teachings of the Church regarding the dignity of the human person. The doctrine affirms that a human person is the unity of the body, mind, and soul, and it has an elegance that should never be violated. The Church believes that the dignity of the human person is violated when a life is ended unnaturally. The Church concludes that the death penalty unnaturally ends a life and is therefore a violation of the dignity of the human person. The Church also believes in a human's freedom to make choices but states that freedom used to make bad choices involves a human in evil. One could conclude from this, that the death penalty is wrong and is, therefore, evil. The Church also states that the government is responsible for harmonizing society and justice to ensure the common good. Because the death penalty is a violation of human dignity and evil, it does not contribute to the common good. Thus, the Church argues that the government should outlaw the death penalty.

In the Middle Ages, death was the consequence for many crimes. Capital punishment was the norm, and in early days, the Church did not oppose the death penalty. In 405, Pope Innocent I was the first Pope to defend the death penalty. Pope Innocent I wrote that power was granted by God and using that power to avenge crime by the sword was permitted (Innocent I, Epist. 6, C. 3. 8, *ad Exsuperium, Episcopum Tolosanum*, 20 February 405, PL 20,495). Shortly after, St. Augustine argued in *City of God* that the death penalty was reasonable as it helped deter the wicked and protect the innocent (*The City of God*, Book1, Chapter 21). In 1566, the Church released its *Roman Catechism*. This catechism came after the Council of Trent and stated that the death penalty is "lawful slaying" and is entrusted to the legal and judicious exercise (Bruger 96-112).

Moving into more modern times, the public's view of the death penalty changed, and so did the Church's. Through the 1950s, the Church regarded the death penalty as something necessary. Pope Pius XII even said that by committing a crime, a criminal had already given up his right to life; therefore, there was no problem with the death penalty. The Church's view started to change in 1965 when Vatican City outlawed the death penalty. Because of this change, most people believed that the Church had changed its view on the death penalty, but it was not spoken about publicly until 1992. In the 1992 *Catechism of the Catholic Church*, Pope John Paul II discouraged the death penalty and encouraged governments to use "bloodless" forms of punishment before the death penalty. In 1997, Pope John Paul II said that the death penalty should be avoided at all costs unless it is the only possible way to defend society. While the Church had voiced its new opinions on capital punishment, it had yet to change its official view on the catechism (Bruger 133-138).

***A Summary of Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice***

In 2016, The U.S. Conference of Catholic Bishops (USCCB) released a statement entitled *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice* which included its thoughts on the death penalty and renewal for the call for the end of capital punishment. The USCCB calls attention to how the death penalty, in the eyes of the Church, is seen as a significant failing of the American justice system. The USCCB writes of the death penalty as having no respect for human life and calls for the Church and Catholics to recognize the human person's dignity and to help end the death penalty. This document helped to solidify the Church's stance against the death penalty and again led more Catholics to be against the death penalty.

The statement begins with a discussion of scripture. It reminds Christians of the mercy that Jesus showed to sinners and how we rely on God's love and mercy in our lives. God has never abandoned any sinner and has provided love and support to all. The USCCB explains how victims rely on God and each other's love in times of crisis. In the same way, the USCCB says Christians are responsible for showing this love and mercy towards criminals. The book uses the Parable of the Prodigal Son as an example of how we should have love for another; a son leaves his home and lives a reckless life. Years later, he returns, and the father celebrates his return and shows him love and mercy instead of anger. The document explains how even the lost need to be shown endless love. It explains how this love and compassion will allow the criminals to participate in restorative justice, which the Church supports (USCCB, "Scriptural, Theological, and Sacramental Heritage").

The document explains how our sacramental life can help us to understand the Catholic approach to crime and punishment. It uses the four traditional elements of the sacrament of Penance to demonstrate making amends and taking responsibility. They are contrition, confession, satisfaction, and absolution. Contrition is genuine sorrow or regret over one's wrongs and the resolution not to repeat the wrong. Confession is described as explicit acknowledgment and acceptance of responsibility. Satisfaction is one's desire to amend the wrong and one's life. The book describes absolution as the forgiveness of sins once Contrition, Confession, and Satisfaction have been completed. The book explains how today, these traditional teachings should shape our justice system (USCCB, "Sacramental and Historical Heritage").

Finally, the USCCB's work discusses the dignity of the human person concerning capital punishment. They write that every person is created in the image and likeness of God and that this is the foundation of Catholic social teaching. Persons cannot lose their dignity even if they make wrong or sinful decisions. Human dignity is also not something that can be earned with good behavior. So, criminals and victims alike retain their human dignity. Because a person is made in the image of God, they possess dignity, value, and a worth that should be recognized, promoted, safeguarded, and defended. For this reason, the USCCB writes, the justice system must provide necessities to humans to fulfill their needs. The USCCB writes that those who commit crimes disregard their responsibility to respect others' human dignity, but that does not mean their human dignity should be ignored. The USCCB concludes that capital punishment violates a criminal's human dignity and should be ended to protect every person's human dignity (USCCB, "Human Rights and Responsibilities").

The USCCB and their book sparked a newfound call to end capital punishment, and in 2011, Pope Benedict XVI called for the total abolition of the death penalty. He claimed that



capital punishment in the modern day violates a human's right to life. Pope Francis I agreed and in 2018, the Church released a new revision of 2267 of the *Catechism of the Catholic Church*. The new catechism stated that the Church now teaches that the death penalty is inadmissible because it attacks the inviolability and dignity of the person. The Church believes this because a person's dignity is not lost after committing a severe crime, and more efficacious sanction systems have been developed (Catholic Church, par. [2267]).

### **A Summary of Camus on the Death Penalty**

While the Church has made an argument against the death penalty in order to defend the dignity of the human person, in an essay written in 1957 by Albert Camus, entitled *Reflections on the Guillotine*, Camus makes arguments against the death penalty that have nothing to do with religion. Camus calls the death penalty "not only useless but definitely harmful" (Camus 140). Camus makes arguments based on the lack of deterrence, the death penalty breeding violence, and the lack of an ability to deliver judgment upon others. Camus's essay helped to provide reasons to be against the death penalty that the Church had not discussed.

Camus focuses his argument on how he believes that capital punishment is ineffective because of its lack of deterrence. He explains that while the death penalty might have been influential in the past when public executions took place, capital punishment now takes place in private. When executions took place in public, it was exemplary and therefore frightening, which may have worked as a deterrence than how the death penalty is carried out in modern times. Camus writes that deterrence may not even work on criminals because most criminals do not feel anything and are already drawn to crime. Camus writes, "the power of intimidation reaches only the individuals who are not drawn towards crime" (Camus 143). Camus also writes about how the death penalty does not correlate with crime. In countries where the death penalty has been

abolished, Camus cites how statistics remain unchanged. Camus's last argument on the effectiveness of the deterrence of the death penalty involves premeditation. Camus writes that most murderers did not know they would kill the morning they did; therefore, their crimes are not premeditated. Camus believes that no deterrent can be effective in a case when a crime is not premeditated (Camus 136-141).

Camus's following argument against the death penalty revolves around how capital punishment only breeds further violence. He calls a punishment based on revenge the 'law of retaliation.' Camus calls into question the famous saying, "whoever has done harm must suffer harm; whoever has put out an eye must lose an eye; and whoever has killed must die" (Camus 150). He states that this saying exemplifies a violent emotion and not a principle. Camus writes that retaliation and the death penalty are based on nature, instinct, and emotion. While those things may be important, they are impossible for the law to act upon. He believes the death penalty can be classified as the 'law of retaliation.' Camus warns that impulse leads to retaliation and retaliation leads to vengeance. Vengeance, which Camus believes the death penalty is based upon, only helps to continue a cycle of violence (Camus 149-153).

Camus does acknowledge that it might be just and necessary to punish a murderer by death; however, he thinks it is nearly impossible to put a murderer to death without taking away human decency and continuing the cycle of violence. Camus writes that the death penalty, when carried out in public, is more than just murder. Camus writes that it is humiliation and takes away from human decency. Camus believes that because of this, the death penalty cannot be equated to murder. Camus also acknowledges how the death penalty is carried out in private today. He believes that the way that the government carries out the death penalty is wrong. The government lets criminals sit on death row and informs them of the day they will be put to death.

A murderer would be called a monster if he warned their victims of the date that they were going to die; so, Camus poses the question, how is the death penalty any different? Camus believes that the death penalty reduces criminals to desperate and powerless conditions. To round out his beliefs on how the death penalty breeds further violence, Camus takes into account the families of the criminal who is put to death. The families of the criminals mourn for their family members' death even in the circumstances. The death penalty hurts the family members who did not deserve the pain. Camus writes that he believes that the families of the criminal who has been put to death will become vengeful and continue the cycle of violence (Camus 153-157).

Camus also argues that it is no man's right to declare when another dies. He writes that unless one is entirely moral, he has no right to judge and decide when others live or die. Camus then explains that if moral life is utterly impossible, no person has the right to decide when another dies. He writes, "no one among us can pose as an absolute judge and pronounce the definitive elimination of the worst of the guilty" (Camus 161). Camus believes that our society has accepted the death penalty and definitive punishment that cannot be reconsidered. Camus writes that no person should accept the elimination of criminals because we have no right to say when their lives are over. Camus considers an argument against the death penalty that is entirely different from that of the Catholic Church. While the Church is against the death penalty in order to protect the dignity of the human person, Camus takes a stand against the death penalty by arguing that the death penalty only breeds further violence in the world. Camus' argument sheds light on a new side of the argument that strays away from the dignity of the human person and morality (Camus 160-167).

## US Supreme Court Cases Involving the Death Penalty

Throughout United States history, the death penalty's constitutionality has been questioned. Over the last 50 years, the number of crimes with capital punishment as a consequence has dwindled due to rulings of the Supreme Court. The Supreme Court has ruled in numerous cases regarding the 8<sup>th</sup> and 14<sup>th</sup> amendment rights of defendants. The 8<sup>th</sup> amendment protects citizens from excessive bail, excessive fines, and cruel and unusual punishment. The 14<sup>th</sup> amendment ensures that all citizens receive equal protection under the law and that no citizen can be deprived of life, liberty, or property without due process.

The first case that has an impact on laws today was in 1968. In *Witherspoon v. Illinois* (1968), William Witherspoon was convicted of murder and sentenced to death in Illinois. Witherspoon's trial used an Illinois statute allowing grounds for dismissing jurors with "conscientious scruples" against capital punishment. The prosecution used this statute and dismissed almost half of the jurors. Witherspoon appealed, claiming that dismissing any juror with a qualm against capital punishment violated his 6<sup>th</sup> amendment right to an "impartial jury" and his 14<sup>th</sup> amendment right to due process (Clay).

The Supreme Court ruled in Witherspoon's favor. They agreed that because of the prosecution's dismissals, the jury was biased towards the death penalty and that violated Witherspoon's 6<sup>th</sup> and 14<sup>th</sup> amendment rights. The court held that jurors who say they will not impose the death penalty could be dismissed but wrote that those who simply oppose it could not be dismissed. This brought new rules into cases that involved the death penalty as a potential sentence. This Supreme Court's ruling still holds today. In a capital trial, a juror cannot be dismissed for opposing the death penalty but they must be willing to impose the death penalty (Clay).

A few years later, the 1972 Supreme Court case *Furman v. Georgia* (1972) involved Furman burglarizing a home when a resident discovered him. When Furman attempted to flee, he tripped and fell, and the gun he was carrying fired and killed the resident. Furman was convicted of murder and sentenced to death in Georgia. Furman appealed, claiming that in his case, the death penalty violated his 8<sup>th</sup> amendment rights and was cruel and unusual punishment. Furman was a black man and he claimed that because he was black, the jury was more inclined to give him the sentence of the death penalty. Two other petitioners joined Furman. They were also black men that who been sentenced to death. Petitioner Jackson, convicted of rape in Georgia, and petitioner Branch, convicted of rape in Texas. The Supreme Court heard their appeals at the same time.

In Furman's case, the Supreme Court ruled that capital punishment violated his 8<sup>th</sup> amendment rights and was unjust because of racial bias. The Supreme Court acknowledged that the death penalty often had a racial prejudice and urged the states to rethink their statutes about the death penalty. The Supreme Court ruled the death penalty unconstitutional when applied in a discriminatory manner. The term 'discriminatory manner,' as used in the dissertation, was inclusive and vague and thus gave defendants more ground to stand upon when appealing convictions in the case of capital punishment. As a result, 35 states amended their death penalty laws. *Furman v. Georgia* (1972) was a monumental decision as it led to a rapid decline in capital punishment because the new ruling gave defendants more freedom to appeal their death sentence on the grounds of discriminatory manner and offending human dignity (Skelton “Furman V. Georgia...”)

After *Furman v. Georgia* (1972), any person sentenced to death had more means to appeal to a higher court in hopes that their death penalty would be ruled unconstitutional. This

led to a rapid decrease in the number of people sentenced to death. Georgia, Florida, Texas, North Carolina, and Louisiana were among the 35 states that changed their laws regarding capital punishment following *Furman v. Georgia* (1972). These five states had a defendant appeal their death sentence based upon an 8th amendment violation claiming that the death penalty was discriminatory. The Supreme Court heard the cases from each of the five states at the same time. Ultimately, the Supreme Court decided that the death penalty was not cruel and unusual punishment. While the death penalty itself was constitutional, laws that required the death penalty for certain crimes were unconstitutional; crimes needed to be looked at individually and all the necessary circumstances to be considered. The court ruled that imposing the death penalty for a particular offense and making it the mandatory punishment for a crime was a violation of 8<sup>th</sup> amendment rights, but the death penalty was constitutional. Because of the Supreme Courts' previous ruling, the death penalty was unpopular with the public and many thought of capital punishment as inhumane. Public opinion led to many states switching to lethal injection as their primary form of execution, as it was seen as the most humane form of capital punishment (Skelton, "Gregg v. Georgia...").

In the 1977 Supreme Court heard *Coker v. Georgia* (1977). Erlich Coker was a convicted felon serving time for murder, rape, kidnapping and assault. In 1974 he escaped from prison and broke into a couple's home. He raped the wife and stole the family's car. When Coker was caught shortly after, the prosecution sought the death penalty for the rape of the woman. Coker was sentenced to death on the rape charge. Coker's sentence raised the question of whether or not the death penalty was a fair punishment for rape.

In *Coker v. Georgia* (1977), the Supreme Court ruled that capital punishment for rape violated a person's 8<sup>th</sup> amendment rights. Their decision states that the sentence of death for the

crime of rape was cruel and unusual punishment. The court noted that capital punishment was on the decline in almost all states and that Georgia was the only state that allowed the death penalty for the rape of an adult woman. The court wrote that the death penalty was excessive in severity and revocability because rape did not involve taking another human life. Consequently, the state of Georgia changed its laws and outlawed the death penalty as a sentence for the rape of an adult woman (Skelton, “Coker v. Georgia...”).

In 1978 the Supreme Court heard *Lockett v. Ohio* (1978). Sandra Lockett was convicted of aggravated murder and sentenced to death. Lockett was driving a getaway car for an armed robbery that resulted in the murder of the store owner. Lockett was convicted of aggravated murder and sentenced to death because of an Ohio law that required anyone found guilty of aggravated murder to be given the death penalty. Under this statute, the death penalty was the mandatory sentence unless the victim had facilitated the offense, the crime was committed under coercion, or the offense was a product of mental deficiencies. Lockett's defense argues that the statute violated her 8<sup>th</sup> and 14<sup>th</sup> amendment rights by limiting the mitigating factors of the crime.

The Supreme court ruled that the Ohio statute violated the defendants' 8<sup>th</sup> and 14<sup>th</sup> amendment rights. The court pointed out that there are many different factors in each case heard, and each case needs individualized consideration. Therefore, Ohio's law violated 8<sup>th</sup> and 14<sup>th</sup> amendment rights by not considering mitigating factors in each case. New cases involving capital punishment need to be individually handled. Each case's elements are to be regarded separately (“Lockett v. Ohio...”).

Through the 1960s and 70s support for the death penalty varied. In the early 1970s and after the Supreme Court's ruling in *Furman v. Georgia* (1972), only two out of five people were in favor of the death penalty for a person convicted of murder. However later in the 1970s, two

in every three people were in favor of the death penalty. The United States Department of Justice explains how changes in laws were responsible for change in public opinion (“Capital Punishment 1980”).

In 1982 the Supreme Court heard *Enmund v. Florida* (1982). Earl Enmund drove a getaway car for an armed robbery where two older adults were killed. While Enmund did drive the getaway car, he did not participate in the theft and had no idea anyone would be killed. Enmund was still convicted of felony murder and robbery and sentenced to death. Enmund's defense argued that because Enmund had no apparent intention to kill and did not take part in the killing, the death penalty violated his 8<sup>th</sup> amendment rights and was cruel and unusual punishment. This brought into question if the death penalty was constitutional when there was no intention or attempt to take another human's life.

The Supreme Court ruled in a 5-4 decision that the death penalty was unconstitutional in cases when a person did not do the killing, attempt to kill, or have the intention to kill. According to the Supreme Court, capital punishment would violate a person's eight and fourteenth amendment rights in these cases. This decision made fewer crimes eligible for capital punishment (Skelton, “Enmund v. Florida...”).

In 1986, the Supreme Court heard *Ford v. Wainwright* (1986) which involved a Florida resident, Alvin Bernard Ford, was sentenced to death for first-degree murder in 1974. At the time of the murder and during the trial and sentencing, there was no evidence that Ford was insane, but his mental condition deteriorated while he was on death row. Ford was put through a cognitive assessment, and it was determined that he had become mentally insane while on death row. Despite this knowledge, the Florida governor still signed off on his death. Ford's lawyers appealed, claiming that the execution of the mentally insane violated a person's 8<sup>th</sup> amendment



rights. In a 7-2 decision, the Supreme Court ruled that executing the mentally insane was "savage and inhumane" and that no state should permit such executions as it violated a defendant's 8<sup>th</sup> amendment rights. This new ruling also stated that under due process, a defendant has the right to a competency evaluation before the death penalty is carried out (Pastroff).

In the 1987 Supreme Court case of *McClesky v. Kemp* (1987), the petitioner, McClesky, was a black man convicted of murdering a white police officer and he was sentenced to death in Georgia. McClesky appealed, claiming that a black man was much more likely to receive the death penalty than a white man in Georgia. He claimed that blacks received a disproportionate amount of death sentences, and it was a violation of his equal protection clause under the 14<sup>th</sup> amendment and his 8<sup>th</sup> amendment rights. In a 5-4 decision, the Supreme Court ruled that in McClesky's case, there was no evidence of the death penalty being applied in a discriminatory manner, or that that racial discrimination was present in the ruling. The court also ruled that juries are allowed to use discretion which allows a jury to be influenced by racial prejudice. This ruling invalidated evidence that had been used in some state cases and gave petitioners less ground to stand on when claiming that the death penalty had been applied in a discriminatory manner. This ruling led to a decline in appeals surrounding capital punishment (Skelton, "McClesky v. Kemp...").

In 1988 the Supreme Court heard *Thompson v. Oklahoma* (1988). When Thompson was only 15, he was tried as an adult for first-degree murder. He was convicted and sentenced to death. He appealed, and the constitutional question arose of whether or not a 15-year-old could be executed without violating their 8<sup>th</sup> amendment rights. In a 5-3 decision, the Supreme Court ruled that no person under the age of 16 could be executed as it violated their 8<sup>th</sup> amendment

rights and would be ruled cruel and unusual punishment as it would violate evolving standards of decency, or moral standards in the United States (“Thompson v. Oklahoma...”).

In 1989 the Supreme Court heard *Stanford v. Kentucky* (1989). 17-year-old Kevin Stanford was convicted of murder, sodomy, and robbery. Stanford was sentenced to death in the state of Kentucky. Stanford appealed, claiming that the imposition of the death penalty on a person under the age of 18 would be a violation of his 8<sup>th</sup> amendment rights. The Supreme Court disagreed with Stanford. In a 5-4 decision, the Supreme Court ruled that imposing capital punishment on a person below 18 was not cruel and unusual under federal law. The Supreme Court left the decision up to individual states and the use of capital punishment on 16 and 17-year-olds. This ruling stood until the Supreme Court overruled their own decision in the 2005 case, *Roper v. Simmons* (2005). In a reversal of their 1989 ruling, the Supreme Court now stated that the use capital punishment on anyone under 18 was cruel and unusual under federal law (“Stanford v. Kentucky...”).

In the 1980s and 90s, support for the death penalty continued to vary. Through the 1980s, according to a Gallop Poll, between 65% and 75% of Americans were in favor of the death penalty. Again, as laws changed, so did public opinion. In September of 1994, public support for the death penalty reached an all-time high of 80% of Americans in favor of the death penalty (“Death Penalty”).

In 2002, Daryl Atkins was tried for abduction, armed robbery, and capital murder in Virginia. During the trial, the defense relied on the testimony of a psychiatrist who claimed that Atkins could not be held accountable for his crimes because he was "mentally retarded." Atkins was found guilty in Virginia. Atkins appealed, and the Supreme Court heard his case, *Atkins v. Virginia* (2002) later in 2002. In a 6-3 opinion, the court decided that death is not a suitable

punishment for any mentally 'retarded' person due to their lessened culpability (Skelton, "Atkins v. Virginia...").

In 2008 the Supreme Court heard *Baze v. Rees* (2008). Two inmates in the state of Kentucky challenged the state's method of execution. At the time, Kentucky used lethal injection as its primary method of execution. The inmates challenged that the effects of the drugs would cause a long and painful death and was, therefore, cruel, and unusual punishment and a violation of their 8<sup>th</sup> amendment rights. Kentucky used a combination of four drugs the inmates claimed could cause pain. In a 7-2 decision, the Supreme Court ruled that Kentucky's four-drug lethal injection method was constitutional and not a violation of the defendant's 8<sup>th</sup> amendment rights (Skelton, "Baze v. Rees...").

In 2008 the Supreme Court heard *Kennedy v. Louisiana* (2008). Patrick Kennedy was found guilty of raping his 8-year-old stepdaughter. In Louisiana, a person could receive the death penalty for the rape of a child under 12. The prosecutor sought the death penalty and Kennedy was sentenced to death when he was found guilty. Kennedy appealed, claiming that the punishment was cruel and unusual because he did not take a life. In a 5-4 decision the Supreme Court ruled in favor of Kennedy. They ruled that the death penalty was barred from child rape case because there was no intent to take a life. The Supreme Court Ruled that it violated the 8<sup>th</sup> amendment rights of the defendant (Skelton, "Kennedy v. Louisiana...").

In 1978, in Florida, Freddie Hall was convicted of murder and sentenced to death. In 2014, while still on death row, Hall appealed his conviction claiming that Florida's process of determining if a person had an intellectual disability was flawed and affected his conviction. In Florida, in order to determine if a prisoner was competent, an I.Q. test was given. If a person scored below 70, they were considered intellectually disabled and could not be sentenced to

death. If a person scored above 70, they could not be considered mentally disabled in the eyes of the law and were able to be sentenced to death. Hall received a slightly higher score than 70 on the I.Q. test, so in the eyes of the law, he was eligible to be sentenced to death. In 2014, Hall and his lawyers appealed, claiming even though Hall had passed Florida's IQ test, he was intellectually disabled. Hall's lawyers claimed that Florida's I.Q. test was not an accurate way of determining intellectual disability and violated Hall's 8<sup>th</sup> amendment rights. In 2014 the Supreme Court heard the case *Hall v. Florida* (2014). The Supreme Court ruled that Florida's I.Q. test violated the 8<sup>th</sup> amendment because it considered the I.Q. score conclusive and final evidence in measuring one's mental capacity. The Supreme Court ruled that the I.Q. test could still be used but could not be the single determining factor in deciding if a person had an intellectual disability. This ruling led to many states altering their laws (Skelton, "Hall v. Florida...").

In April 2014, Oklahoma attempted to execute Clayton Lockett using the lethal injection procedure. The procedure did not work, and Lockett awoke after his injection and died after 40 minutes. The state of Oklahoma investigated and suspended the execution of any more prisoners for the time being. They introduced a new method to ensure prisoners did not wake up. This new method included a drug called midazolam. More than 20 inmates on death row throughout the country argued that using this new drug violated their 8<sup>th</sup> amendment rights because they claimed that midazolam made them feel pain. The Supreme Court heard their case in 2015. In *Glossip v. Gross* (2015), the Supreme Court ruled in a 5-4 decision that the use of midazolam did not violate the plaintiff's 8<sup>th</sup> amendment rights. The Supreme Court argued that there was insufficient evidence to support that midazolam entailed a substantial risk of severe pain. They went on to state that the petitioner's argument was weakened because he had failed to provide an alternative

to midazolam. This decision led many states to resume lethal injection using midazolam. Today lethal injection is the only form of capital punishment used. (Skelton, “Glossip v. Gross...”).

Thirty years ago in Alabama, Vernon Madison was convicted of serious crimes and sentenced to death. While on death row, Madison suffered several strokes, which caused him not to remember committing his crimes. Due to his strokes, Madison also suffered brain damage, slurred speech, and blindness. When Madison was scheduled to be executed in 2016, he challenged his execution on the grounds of his 8<sup>th</sup> amendment rights and claimed incompetency due to his newfound medical conditions. The Alabama circuit court ruled that Madison was still competent even though he could not remember committing his crimes. Madison's lawyers challenged them one more time because Madison was not competent enough to fully understand the consequences of his crimes. Therefore, executing him would be an 8<sup>th</sup> amendment violation because he has an intellectual disability. In 2019 the Supreme Court heard his case: *Madison v. Alabama* (2019). The Supreme Court found that it does not violate one's 8<sup>th</sup> amendment rights to be executed for a crime they do not remember. However, the court ruled in a 5-3 opinion that the 8<sup>th</sup> amendment prohibits executing a person who cannot fully comprehend the consequences of their crimes or sentence. This led to more rights for the defendant to appeal their death penalty sentence (“Madison v. Alabama”).

All of these cases had an impact on federal law and public support of capital punishment. As the Supreme Court began to limit the use of capital punishment in the United States, public opinion also began to change. From the time that support for the death penalty reached an all-time high in 1994, support has diminished since. In a 2022 Gallop poll 55% of American were in favor of the death penalty (“Death Penalty”).

## A Discussion of Public Opinion

Although the Church has been discouraging the death penalty since the 1990s, the Church's official change of their view seems to have little effect on the views of its members. It appears as though a majority of white Catholics that have been in favor of the death penalty, still

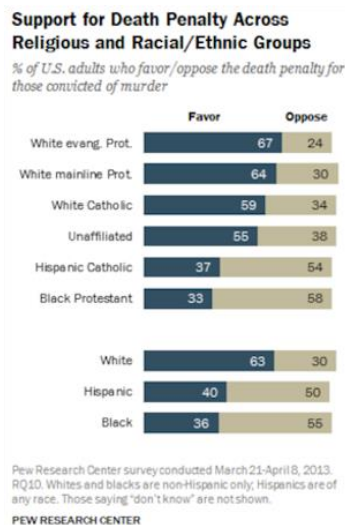


Figure 1, Support for Death Penalty Across Religious and Racial/ Ethnic Groups. Source: Pew Research Center. Bruenig, Elizabeth. "Figure 1." The New Republic, Mar. 2015, [newrepublic.com/article/121231/national-catholic-publications-announce-opposition-death-penalty](https://newrepublic.com/article/121231/national-catholic-publications-announce-opposition-death-penalty).

are. In a survey conducted by Pew Research center in 2013, 59% of white Catholics favor the death penalty (figure 1). This sharply contrasts the Church's view of the death penalty. Although this data was taken before the Church published the 2018 catechism, a newer poll also conducted by Pew Research Center showed similar results. In 2021, a poll showed that 31% of white Catholics 'somewhat' favor the death penalty and 27% of white

Catholics 'strongly' favor the death penalty. That means that 58% of white Catholics support the death penalty in some capacity. This is only a 1% change from the support from 8 years before. This is interesting because, between the two polls, the use of capital punishment has significantly declined, and the Catholic Church officially changed its views on the death penalty. Although the Church has taken a stark stance against the death penalty, it seems that the opinion of the Church had little to no effect on the opinions of its members (Pew Research Center).

This small shift in opinion is surprising but can be explained. Before 2013, the Catholic Church had been openly against the death penalty for more than a decade and most Catholics were aware of this belief. So, when the church officially changed their views in 2018, it follows that it had little to no effect on public opinion of Catholics.

## Conclusions

Capital punishment has a deep history that began long ago. It can be traced back to as early as the 7th century and has been engraved in American history as it has been present since the beginning of our country. As it has been accepted that capital punishment does not deter crime, the question of whether capital punishment violates the 8<sup>th</sup> amendment. In the 1990s, the Church took a stark stance against capital punishment, calling it 'a violation of human dignity'. (The definition of the dignity of the human person and how the death penalty violates that can be more fully understood in *The Compendium of the Social Doctrine of the Church* and USCCB's book entitled *Responsibility, Rehabilitation, and Restoration: A Catholic Perspective on Crime and Criminal Justice*).

These two documents along with encyclicals written by several Popes shows how the church uses the dignity of the human person to defend life and call for the end of capital punishment. The Church's stance has resulted in many Catholics shifting their support away from the death penalty. In Albert Camus's *Reflections on the Guillotine*, Camus argues against the death penalty in a different way than the church does. Camus's essay gave reasons other than the dignity of the human person to be against the death penalty and shifted the opinions of many. The Supreme Court has heard numerous cases regarding capital punishment, and it began to limit the use of capital punishment in regard to 8<sup>th</sup> amendment which also shaped public opinion. Public opinion has varied its support of capital punishment in the last few decades but, it has been on the decline since the late 1990s and this can be explained by the change in the Church's view and the changes in federal law.

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