

## Topics / Capital Punishment / Capital Punishment: Overview

On April 22, 1983, Alabama officials began the process of executing death row inmate John Evans. However, events did not go according to plan. After he was placed in the electric chair, electricity was applied to Evans' body but immediately there was an explosion of sparks and flames from the electrode strapped to his leg. Then the electrode itself broke away from the strap and caught fire. There were more explosions and smoke and sparks erupted out of the hood covering Evans' head. To establish his condition, two doctors examined him and discovered that Evans was still alive. Those in charge of the process reattached the electrode but again the outcome was more smoke and the burning of his body. Evans was still alive and despite requests from his lawyer to halt the execution, a third shock was inflicted on his body. He was declared dead soon after. From beginning to end the execution took 14 minutes and left Evans' body burnt. Opponents of capital punishment suggest the methods employed to bring about death amount to cruel and unusual punishment, but the Supreme Court has yet to support them.



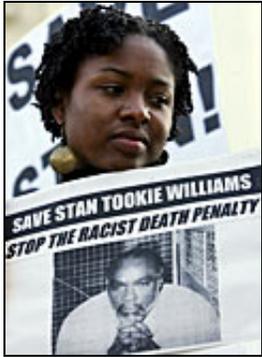
Historically, executions were conducted in public and attracted very large and rowdy crowds of tens of thousands of people. Over time execution was shifted from the public arena to the privacy of prison walls, perhaps to avoid socially disruptive crowds, or to reflect the changing sensibilities and sensitivities of the middle and upper classes. Nevertheless, the spectacle of a public hanging was still fascinated Americans as late as 1936. In the past, capital punishment was enforced in a variety of ways, including flaying and impaling, burning at the stake, and drawing and quartering, but in recent times it has been limited to death by firing squad, hanging, electrocution, or lethal injection. Death by lethal injection is now the principal method of execution and as of 2003 was used in 37 states.

Capital punishment refers to the termination of the life of a person in accordance with a sentence of a court after a person has been convicted of a capital crime. After nearly 150 years of constitutional government, the first federal restrictions on the death penalty were enacted. The cases of *Powell v. Alabama* (1932) and *Brown v. Mississippi* (1936) introduced federal restrictions on the use of capital punishment, including a requirement that indigent defendants be provided legal counsel if a state sought the death penalty. During the 1950s there was a general move away from support for capital punishment. Between 1960 and 1976 there were only 191 executions as compared to about 1,200 annually during the 1940s. In the 1960s, death penalty abolitionists began a sustained attack on the punishment's constitutionality. By the early 1960s most states had ceased to conduct executions. By 1966, a Gallup poll revealed that only 42% of people in the U.S. supported the death penalty.



In 1972, the U.S. Supreme Court declared all but a few death penalty statutes unconstitutional and each of the approximately 630 inmates then on death row throughout the country were re-sentenced to life imprisonment. The Court was divided on the issue of whether capital punishment as then practiced violated the Constitution. Three justices in the majority stated that capital punishment as it was then practiced under state laws was unconstitutional because the discretion it allowed could amount to cruel and unusual punishment. The Supreme Court told the states

to remedy the defects in their legislation and the states acted swiftly to do so. By 1976, new or revised legislation authorizing capital punishment had been enacted in five states.



In *Gregg v. Georgia* (1976), the Supreme Court approved several of the recently enacted capital statutes. These recently enacted statutes established a system through which juries weighed the influence of aggravating factors, and then chose the punishment, one of which was the death penalty. The ability of legislators to add new aggravating factors to their death penalty laws allowed the number of cases with the possibility of a death penalty sentence to grow. Opponents of the death penalty criticized these reforms for possibly increasing executions, rather than decreasing them.

Abolitionists have referred to economic studies to bolster their case against the death penalty. Studies have shown that a modern day death penalty system is very expensive, with one study revealing that it costs \$3.2 million to electrocute a prisoner as compared to \$600,000 for life imprisonment. In 2000, it was reported that taxpayers in Texas were paying an average of \$2.3 million for each execution, while incarceration for life in that state cost from \$800,000 to \$1 million. In 2003, 11 states and the federal government executed 65 inmates who had each been on death row for almost 11 years. At the end of 2003, there were 3,374 prisoners on death row. California held the largest number with 629, followed by Texas with 453.

Today, capital punishment is widely regarded as an issue of human rights and not a matter of choice in criminal justice policymaking. In 1998, five countries, one of which was the United States, were responsible for more than 80% of executions throughout the world. The other four countries were China, the Congo, Iraq, and Iran; nations not normally allied with the United States on any issue. By the end of 1998, 67 countries had abolished the death penalty for all offenses, 14 had retained it for exceptional crimes, and 24 others had not executed anyone for at least 10 years. All countries in the European Union have abolished the death penalty, considering abolition to be a fundamental attribute of a civilized modern state.



Public opinion in the United States towards the death penalty over the past 50 years has fluctuated. From the 1950s through about 1966, support for the death penalty stood at about 47%. But since 1982, a steady majority of about 75% has been in favor of it. Some believe the death penalty to be a deterrent for criminals, having more impact than a long period of imprisonment without parole. Others argue that it permanently incapacitates the offender and is needed to protect society from murderers who might murder again if released from prison. The option of life without parole does not seem to dissuade this group. Many people fear that political leaders will release murderers who were sentenced to life, and advocate the death penalty to eliminate that future possibility. Others believe that those who commit the most heinous crimes deserve to be executed, and that life without parole does not sufficiently punish them.

## Cyndi Banks

### Further Reading

Banner, Stuart. *The Death Penalty: An American History*. Cambridge: Harvard University Press, 2003; Mandery, Evan J. *Capital Punishment in America: A Balanced Explanation*. Boston: Jones and Bartlett Publishers, Inc., 2004.

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