Racial Discrimination and the Death Penalty: An Analysis of the United States’ Judicial System

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Abstract:
Racial discrimination plays a role in the administration of the death penalty. This research analyzes the history, and past scholarly research, of the death penalty. The purpose of this research is to understand the correlation between racial discrimination and the death penalty. This study includes a literature review regarding the different aspects of the death penalty and race. Following the literature review, an analysis is performed of both previous literature and current death penalty statistics that augment the discussion of the death penalty.

Introduction and Purpose of Study:
The United States has an extensive history of racial discrimination ranging from the overt discrimination of the Jim Crow era to the more ambiguous discrimination of modern times. Discrimination has permeated the judicial system of the United States. The purpose of this study is to provide a view of the racial and death penalty through a socio-political lens. This study seeks to augment the discussion of possible future outcomes of the death penalty within the United States.

Methodology:
The methodology within this research is comprised of case studies and discourse analysis. This methodology gauges the relationship between the death penalty and race. Statistical data regarding death penalty cases bolsters the discourse and historical analysis presented within this research. The units of analysis used in this study are the death penalty cases themselves. The study observes what affects the units of analysis have on the overall decision-making process of judges, juries, and the Supreme Court. The case studies and discourse analysis provide enough information to make an argument regarding the arbitrary application of the death penalty.

Literature Review:

Historical Underpinnings:
Between 1862 and 1968, approximately 3,000 people were lynched and this continued into the 1960s. Ogletree argued that “lynching was an expression of racism and racial discrimination,” citing sociologist Gunnar Myrdal, who “argued that lynching was a tool used to maintain racial caste distinctions and to keep blacks in a position of subjugation” (Ogletree 2002, 22). To further expand his argument that lynching was a racial act, Ogletree attempts to connect this history with current death penalty patterns. Ogletree discusses the “transactional aspects” of lynching, comparing the lynching mobs with 3,500 journalists applying to “witness Timothy McGlynn’s execution” (Ogletree 2002, pp. 22). Essentially, Ogletree argues that modern society still views these executions as recreational to a certain degree.

Recent Scholarship:
Scott Phillips conducted a study from 1992 to 1999, analyzing death penalty and race in Harris County, Texas. This county is “arguably the capital of capital punishment,” and Phillips examined “whether race influenced the district attorney’s decision to pursue a death trial and the jury’s decision to impose a death sentence against adult defendants indicted for capital murder” (Phillips 2009 pp. 609). This study has a far more narrow scope than the Baldus Study, as Phillips examined a specific county and only those defendants who were indicted for capital murder. Phillips argued that while his study was narrow in scope and could not be generalized throughout the country, the death penalty can be generalizable throughout the country due to the vast differences among states and countries. His findings are interesting, as they do not fully focus on the race of the victim, but they also found that the race of the defendant is relevant.

Analysis:
The historical context and the work of previous scholars have shown that there is a correlation between race and the death penalty. One can see the dialectical process in which the death penalty has become far less applicable in recent years after McCleskey v. Kemp. The recent scholarship has a far more narrow scope than the Baldus Study, as Phillips only analyzed one specific county and only those defendants who were indicted for capital murder. His findings are interesting, as they do not fully focus on the race of the victim, but they also found that the race of the defendant is relevant.

The court also stated that “at most, the Baldus study indicates a disparity that appears to correlate with race, but [has] the disparity does not constitute a system-wide pattern” (Phillips 2009 pp. 609). This study does not demonstrate that Georgia’s capital sentencing system violates the Eighth Amendment” (McCleskey v. Kemp 481 US 279 [1987]).

Following this 5-4 decision, many scholars have analyzed the impact the Kemp decision has had on the legal system with regard to the discrimination and the death penalty. This decision parallels the court’s attitude in McCleskey essentially stating that the 1983 Baldus study’s statistics, even if valid, could not be applied specifically to the case at hand. Justice Powell delivered the opinion, arguing that the question at hand is “whether a complex statistical study that indicates a risk that racial considerations enter into capital sentencing determinations proves that petitioner McCleskey’s capital sentence is unconstitutional under the Eighth or Fourteenth Amendment” (McCleskey v. Kemp 481 US 279 [1987]).

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Conclusions & Further Study:
Racial discrimination within the death penalty is a contentious subject that continues to be debated. With this in mind, it is imperative to remain vigilant about the issue in the upcoming years. It seems that the Supreme Court is looking at the acceptance of statistical data within cases. This is a trend that was previously unheard of as is demonstrated within this research project. With that being said, it would be interesting to analyze whether the Supreme Court would accept the legitimacy of statistical data and declare the punishment unconstitutional if a similar case to Kemp were to be introduced today. Further, scholars such as Ogletree are studying race and the death penalty prompting other scholars to do the same. There is far more statistical data that must be accumulated in order to fully develop and understand the issue. However, it seems that the death penalty is being implemented in an arbitrary manner today, despite the fact that the Supreme Court attempted to revitalize this issue decades ago.

References:


