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 augments 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 into the judicial system of the United States. The purpose of this study is to provide a view of the race and the death penalty through a socio-political and historical lens. This study seeks to augment the discussion by focusing on 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, about 3,000 people were lynched and this continued into the 1960s. Ogburn argued that lynching was an expression of racial and racial discrimination; citing sociologist Ansel Myrdal, who suggested lynching was a tool used to maintain race caste distinctions and to keep blacks in a position of subjugation (Ogburn 2002, p. 23). To further expand his argument that lynching was a racist act, Ogburn attempts to connect this history with current death penalty patterns. Ogburn discusses the “treatment aspects” of lynching, comparing the lynching mob with 3,500 journalists applying to “witness Timothy McVeigh’s execution” (Ogburn 2002, pp. 22). Essentially, Ogburn argues that modern society still views these executions as recreational to a certain degree.

Marvin Wolfgang conducted the “first major empirical challenge to racial discrimination in the use of the death penalty in the United States” in the 1960s (Wolfgang 2012, p. 11). Wolfgang convicted of “raping a 13 year old, unmarried white woman” in Arkansas in 1962 and sentenced to death (Maxwell v. Bishop). He challenged his death sentence by arguing that “certain Arkansas statutes... dealing with the crime of rape and the punishment imposed thereon have been applicable unconstitutionally to Negro men convicted of raping white women...” (Maxwell v. Bishop). Wolfgang collected data on about “5000 rape convictions in the southeast during the 1960s” and found no correlation between race of accused and death sentence. The court also stated that “at most, the Baldus study indicates a discrepancy that appears to correlate with race, but [that] the discrepancy does not constitute a major systemic defect” (Baldus 1983, p. 6). The court also stated that “at most, the Baldus study indicates a discrepancy that appears to correlate with race, but [that] the discrepancy does not constitute a major systemic defect” (Baldus 1983, p. 6). The court also stated that “at most, the Baldus study indicates a discrepancy that appears to correlate with race, but [that] the discrepancy does not constitute a systemic defect” (Baldus 1983, p. 6). The court also stated that “at most, the Baldus study indicates a discrepancy that appears to correlate with race, but [that] the discrepancy does not constitute a systemic defect.”

The Baldus Study
David Baldus, Charles Pollock, and George Woodworth conducted a large scale study titled “Comparative Review of Death Sentences: An Empirical Study of the Georgia Experiment.” This study analyzes the significance of “comparative sentence review,” also known as “proportionality review,” [which is] a procedure by which a death sentence is considered consistent with the usual pattern of sentences in similar cases or is comparatively excessive” (Baldus et al. 1983 p. 683).

Baldus et al. noted 3 distinct findings. One finding is that when analyzing the death-sentencing system of Georgia using their measures it could be identified as “presumptively excessive” (Baldus et al. 1983 pp. 728). Ultimately, they argue that their data “suggest that Georgia’s death-sentencing system has continued to impose the type of inconsistent, arbitrary death sentences that the United States Supreme Court condemned in Furman v. Georgia” and that the sentence review process failed (Baldus et al. 1983 pp. 780-793). With these findings, they question whether or not this system was operating “in the consistent, even-handed manner required by the Eighth Amendment” (Baldus et al. 1983 pp. 790).

The Court held that “the statistical evidence [from the Baldus study] was insufficient to support an inference that any of the decision makers in the accused’s case acted with discriminatory purpose in violation of the equal protection clause...” (Mccleskey v. Kemp 1987).

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 disconnect in the process in which the death penalty has become far less applicable in today’s society when analyzing historical context, recent studies, and court cases. The former Supreme Court Justice has historically argued that the arbitrary nature of this punishment is not in accordance with the Eighth Amendment.

Currently, society seems to be moving away from the death penalty. In 2012, “33 states and the Federal Bureau of Prison held 3,933 inmates” with death sentences, which was a decrease of 32 inmates from the previous year (Hess 2014 pp. 1). 2012 was the twelfth consecutive year that such a decrease had occurred (Hess 2014 pp. 1). In 2013, only nine states participated in the executions of inmates, despite the fact that 35 states housed inmates with death sentences (Hess 2014 pp. 3). The states performing these executions accounted for almost three-quarters of the executions performed. These states are as follows: Virginia, Georgia, Texas, Alabama, Arizona, Missouri, Ohio, Oklahoma, Florida, and Texas (Hess 2014 pp. 3). These are considered the Death Belt states, and the majority of them are located in the South. It is important to note that of the same states that fought against civil rights and segregation. One is able to see the legitimacy of the argument that the death penalty is applied arbitrarily when analyzing the statistics and simultaneously keeping in mind the historical dialectic.

Conclusions & Further Study:
Racial discrimination within the death penalty is a contentious subject that continues to debate. With this in mind, it is imperative to remain vigilant about the issue in the upcoming years. It seems that the Supreme Court is moving away from the acceptance of statistical data within cases. This is a trend that was previously unheard of as 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 Phillips 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 mitigate this issue decades ago.

References:


