Psychological Aspects of Social Issues
Psych 254

Chapter 11
Capital Punishment

Outline/Overview

- Recent milestones/statistics
- Punishment – elements and aims
- Pro & con arguments
- Writings
- Current literature
  - Problems w/capital punishment
  - False confessions
  - Innocents convicted
  - Recommendations to minimize problems

Recent capital punishment milestones/statistics

- 1972 Capital punishment ruled cruel & unusual
- 1976 upheld for murder
- 2002 no MR executions (Atkins v Virginia)
- 2005 no executions of < 18 years (Roper v Simmons)
- In 2013, 32 executions in the US as of 10-23-13, (2012 & 2011 43 each year, 2010 - 46)
  - Since 2010 - 3 methods of execution – which are?
- Worldwide executions (the company we keep)
Aims of Punishment

- Retribution – "just desserts" giving people what they deserve.
- Prevention – ensuring that offenders are less likely to repeat their offense.
- Deterrence – discourage others from committing crimes.
- Reform – punishment will get people to conform to rules.
- Does execution meet these criteria?

Summary of abolitionist and retentionist arguments

Against
1. Every life has dignity and worth
2. Class and racial bias
3. Innocent people can be executed
4. Compromises the judicial system

For
1. It is a deterrent
2. Executed murders cannot ever kill again
3. Ultimate crime requires the ultimate punishment
4. Shouldn’t have to support murders for life

Writings: Ernest van den Haag

- Argues in favor of CP
- Addresses several arguments against CP
- Distribution
  - Conflates morality of CP with arguments about alleged biases in application.
- Miscarriage
  - Executing the innocent – “rare”
van den Haag (cont.)

- Deterrence
  - While evidence is equivocal at best, if even some people are deterred & thus innocents spared, it is worthwhile.
- Other issues
  - relative costs, suffering, legitimizing murder
- If only 1 murder per year is deterred, execution of murderers is warranted.

Jeffrey Reiman

- Against CP
- Concedes that CP is a just punishment for murder
  - “lex talionis” permits
  - proportional retribution
- Kantian and Hagelian analyses
- CP is just “not right”
  - inconsistent with a civilized society
- Even though it may be just, abolishing is part of “civilizing mission”

Igor Primoratz

- Defending CP
- Only the death of the murderer can be viewed as proportional.
- Dismisses “right to life” as a universal
- Conviction & execution of innocents means we must do everything possible to reduce future instances
- Racial & economic inequities in CP, are symptoms of general problems in CJ system
Hugo Adam Bedau – The Minimal Invasion Argument

- Against DP
  - cannot know which murderers will kill again
- No evidence for deterrence
- “Poor man's justice”
- State should always use the least restrictive or invasive means of accomplishing goal
  - “invasions by the government of an individual's privacy, liberty & autonomy (or other fundamental value) are justified only if no less invasive practice is sufficient to achieve an important societal goal”

Bedau – Formal argument against CP

- 1. Punishment is justified only if it is necessary as a means to some socially valid end.
- 2. The death penalty is more severe, more invasive, than long term imprisonment.
- 3. Long term imprisonment is sufficient as an invasion of individual liberty, privacy, and autonomy (and other fundamental values) to achieve valid social goals.
- 4. Society ought to abolish any lawful practice that imposes more violation of individual liberty, privacy, or autonomy (or other fundamental value) when it is known that a less invasive practice is available and sufficient.
  - Morality dictates the upper limits of punishment

Conviction of innocents

- Problems with CP
- Related factors?
  - Poor legal defense
  - Police and prosecutor misconduct
  - Eye witness misidentification (Memon et al, 2002)
  - False confessions in 15-25% of innocent defendants overall
- After conviction – death sentence more likely due to demeanor - Antonio (2006)
Central Park Jogger 1989
- Female jogger beaten senseless, raped, and left for dead, with multiple skull fractures, she lost three quarters of her blood
- Survived, was and is amnesic for incident
- Within 48 hrs, solely on the basis of police-induced confessions, five boys, 14 to 16 years old, were arrested for the attack
- All tried, convicted, and imprisoned
- No physical traces at all of the defendants

Innocence Project - False Confessions
- 311 post conviction DNA exonerations
- 18 were on death row
- 30+ murder convictions overturned
- Chain of events leading to false confessions
  - Preinterrogation interview
    - Determining innocence or guilt
    - Claims (85%) vs. reality (only slightly better than chance)
  - Miranda
  - Interrogation

Miranda Warnings
- Interrogation - confrontational and guilt presumptive
- Designed to elicit confession
- Roughly 80% of suspects waive rights
- Even when confronted by a hostile questioner most innocents agree to questioning
- Examples
- Open minded investigators? NOT!
- Confirmation bias contribute to errors by investigators as well as forensic examiners
False confessions in US

- 125 proven cases, 1971-2002
- 93% males.
- 81% involved murder, 8% rape, 3% arson.
- Exonerated by: Real perpetrator identified – 74%, new scientific evidence – 46%
- Young – 63% < 25 years old, 32% < 18
- 22% MR, 10% diagnosed MH
- Sometimes innocents simply come forward and confess: Lindbergh case/Henry Lee Lucas

We are more interested in “compliant false confessions”

Compliant false confessions

- induced through interrogation
- Salem Witch trials, 1692, 50 women confessed
- can be internalized, even when false.
  - two examples
- young children especially at risk
  - example

How are false confessions elicited?

- fatigue and sleep deprivation
- heighten susceptibility to influence
- impair decision making abilities in complex tasks
- typical police interrogations last < 2 hrs.
- documented false confession cases found on avg. = 16.3 hrs, 34% 6-12 hrs. and 39% 12-24 hrs.
Strong assertions of guilt
- once isolated, interrogators confront with strong assertions of their guilt
- communicates futility of resistance
- present suspects with evidence of guilt – e.g., fingerprint, blood or eyewitness ID
  - regardless of whether it really exists
- lying about evidence increases risk of false confession and internalization

Minimization tactics
- inference of leniency
- actions were:
  - accidental
  - spontaneous
  - provoked
- a confession is damning evidence in the eyes of a jury
- convictions in vast majority of cases

Recommendations to minimize false confessions
- 1. Time limits, with breaks for rest and meals
- 2. Eliminate presentation of false evidence
- 3. Eliminate implied minimization
- 4. Videotape all interrogations, showing both suspect and interrogator
References


