
Immanuel Kant and Jeremy Bentham's Ideology on Capital Punishment

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Abstract: Punishment is defined as an act of imposition of a penalty or consequence on someone as a result of their immoral behaviour. The top punishment given in present time is known as "Capital Punishment", it is a state-sanctioned practice of killing (highest punishment) a person as a punishment for an extreme crime. The question is how we arrive at the conclusion. In what ways is the death penalty acceptable? This article chose to contrast two opposing points of view and show how they differ in their attitudes about the death sentence. This article analyse Kant and Bentham's positions on the death penalty because they both embody the core ideas of two well-known ethical schools: retribution and utilitarianism. The researcher focused on the ideologies of Kant and Bentham because they both had a large influence on Western thought, both of them discussed extensively about the death sentence, and the majority of the justifications we use today for and against it are based on one of the two. We look at how they view the system's operation and whether they concur with one another. Additionally, we also look at whether their theories on the death sentence are still relevant today in India. Did, the Indian criminal justice system employed the theories of Kant or Bentham to implement the death penalty? And it will conclude with providing a personal viewpoint on the subject and going over how to draw conclusions that will help us make better decisions on the death sentence.

Keywords: *Capital Punishment, Death Penalty, Retribution, Utilitarianism.*

1. INTRODUCTION

Punishment as a concept and the notion that it is required in some circumstances have likely existed since the dawn of humanity. Everyone learns proper behaviour through a system of rewards and penalties. Since the beginning of time, each of us and the entire human species has been subjected to punishment. (1958) Gardiner We is unable to describe punishment in its most basic form, nevertheless. However, if we had to define it in plain English, it would be "an act of imposing a penalty or consequence on someone as a result of their bad behaviour." Retributive punishment and utilitarian punishment are the two philosophical subcategories of

punishment. The utilitarian views punishment as a means of "detering" future misbehaviour; as such, it strives to punish criminals. While the retributive philosophy strives to punish offenders because they deserve to be punished, it lacks any possibility, scope, or goal that focuses on the future. That is the primary area where utilitarian ideology and retributive philosophy diverge.

Everything in utilitarianism is framed in terms of current pleasure, previous pleasure, past suffering, and current pain. As a result, it is essentially the belief that if you experience pain today, you will make mistakes and won't repeat them tomorrow. Thus, it is the antithesis of the philosophy of retribution or transcendence. Under the notion of retribution, no objective future is taken into account. Deterrence, reform, and prevention are the three main directions that utilitarianism seems to have gone. Since deterrence is the most important of these three, it is also the most well-liked.

Kant claimed that punishment is a "categorical imperative" and that it must always be meted out to offenders for the specific reason that he committed a crime. It's based on the retributive notion of punishment. He is also acknowledged as one of the supporters of retributive Punishment in the modern tradition. Bentham, on the other hand, holds that if punishment should be permitted at all, it should only be permitted inasmuch as it guarantees to exclude a worse evil. Punishment can only be justified by arguing that doing so will make the innocent public happier because it damages the offender. Simply asserting that punishment is necessary for the sake of justice or retaliation is insufficient for utilitarian's. (Berg, 2010) He sees punishment as a means of deterrence, reformation, and handicap. In terms of capital punishment, Bentham prefers life in prison to the death penalty.

One of the few democratic countries in the world, India still uses the death penalty in criminal cases. This article examines the death penalty from the viewpoints of Kant and Bentham, examining whether or not their theories hold true for India. Additionally, it makes an effort to make decisions regarding the death penalty more clearly.

Research Objectives

Even though recent studies have shown that the death penalty is an effective deterrent, many people still believe that it should be abolished since it is such a severe and uncommon form of punishment. This is despite the fact that the death penalty has been shown to be effective in recent studies. However, if this effect can be demonstrated, then the use of the death penalty must involve the taking of a life in exchange for another. If there is a sincere determination to protecting the sanctity of human life, it is possible that this kind of punishment should be imposed rather than outlawed. In light of this, the purpose of the research was to accomplish two interconnected goals: (a) to define the practise of the death penalty, and (b) to apply various philosophical perspectives on the subject of the death penalty that have been stated by philosophers.

2. METHODOLOGY

Research typically takes a qualitative approach due to its nature. The qualitative methods of data collection acquire information from secondary sources such as books, journals, websites, book reviews, paper presentations, and so on. These approaches are based on Immanuel Kant

and Jeremy Bentham's understanding of the idea of punishment and capital punishment. In its conclusion, it discussed how it anticipates both the rate of criminal activity and the severity of punishments will decline.

3. RESULT AND DISCUSSION

3.1 Kant's Ideology Capital Punishment

German philosopher Immanuel Kant is regarded as one of the most influential intellectuals of the Enlightenment period. Additionally, he was lauded for his role as the originator of the contemporary philosophy of law. Let's first analyze the core ideas of Kant's moral principles and the concept of respect for humanity before delving into an analysis of his perspectives on the use of the death penalty. Kant's ethical principles are comprised of a few different components, all of which are aimed at explaining, in the simplest terms possible, what it means to respect other people. Kant begins by arguing that it is unethical to treat another person like they are nothing more than an instrument. We cannot force men give up their autonomy or their right to choose in order to get what we want or to have them act as arbiters of good judgment for other people. They must at all times be regarded as an end in and of themselves, rather than only a means to an end (the accomplishment of our goals). We need to treat them as though they have an inherent value that makes them irreplaceable, and we also need to provide them the status that is commensurate with the respect they deserve for the dignity they possess. This essay will apply the notion of morality to the subject of capital punishment in order to further analyze the concept of morality. When one acts in accordance with what they would consider to be a universal law, one is adhering to Kant's categorical imperatives, which is another name for his principle of morality. Let us return for a moment to Kant's perspective on the use of the death penalty. He maintains that the punitive concept is an absolutely necessary component of the system. Some people might be curious as to why the concept of punishment is considered to be a categorical necessity. The rule of Categorical Imperatives states that breaching the law is immoral since it goes against moral principles, and since breaking the law is immoral, it goes against the rule of Categorical Imperatives. This makes sense given that Categorical Imperatives deal with moral rules. This is due to the fact that it is stated as being moral norms or regulations that all individuals are required to follow by, regardless of their preferences or the specifics of their situation. Since the concept of judicial law incorporates the concept of punishment, the categorical need to form legal institutions likewise establishes the categorical requirement to carry out punishments. He cites equality arguments to support capital punishment. Simply put, he asserts that "morality" may be achieved by applying the same level of severity to each and every instance of criminal punishment. It is unquestionable that his perspectives on punishment are commonly considered as a model of Retributivism, and Retributivism has, for a very long time, been regarded as a particularly promising form of justification for the death penalty. (Potter, 2002) Bentham believes that a punishment is given for the overall good of society or for deterring future generations from committing the crime, while Kant believes that deterrence is irrelevant, and mainly punishing the criminals for their actions means retribution is the only accurate theory. Kant rejects the utilitarian or Bentham's views on punishment. Bentham believes that a punishment is given for the overall good of society or for deterring future generations from committing the crime.

Kant defines punishment as being permissible only when it is an immediate response to an act of criminal wrongdoings in his book, *Metaphysics of Morals*. He writes that "Punishment can never be imposed solely as a means to promote some other benefit for the criminal himself or for civil society." Only the fact that he committed a crime justifies ever meting out such a punishment to him, though. (1991, Gregor and Mary J. Gregor)

The use of the death penalty by the state is an absolute requirement, particularly in situations involving murder. He has absolutely no interest in how the state will benefit from this at all. Instead, he is interested in the morality of the situation as well as the outcome for the individual who is being executed; for him, this represents the ultimate equality of action. In addition to this, he explains that the law of vengeance can only be enforced by a judge or a court, and not by our own individual discretion. Hegel, similarly to Kant, was an advocate of the *lex talionis* doctrine of punishment. Kant believed that the penalty should come as close as possible to the natural punishment, and that it should never be regarded a means to another aim, either in terms of society or the offender himself. He believed that this principle applied equally to all parties. Although Hegel showed less admiration for the *Mechanics of the lextalionis*, he agreed with Kant's view that punishment was contracted for the Criminal, and that the criminal, as an independent free agent, was entitled to have the contract Performed by society. Despite this, Hegel's view of the *lex talionis* was criticized. (2017) Jerry E., 1967

3.2 Bentham's Ideology Capital Punishment

The moral philosophy of utilitarianism places "Happiness more than all others goals in life," and Jeremy Bentham is sometimes credited as its "founding father." Jeremy Bentham's views on punishment can be traced back to his utilitarian philosophy. Many of Bentham's papers reveal his views on punishment, but his first published book, "An Introduction to the Principles of Morals and Legislation," has the most theoretical discussions of his ideas. (Draper, T., 2002). Beccaria's study had an impact on his utilitarian thinking regarding Punishment; he saw it as the key to unlocking the mystery of how to best encourage lawful behaviour. Bentham's perspective of capital punishment is grounded in his theory of retribution. He thinks punishment is horrible in principle since it results in negative emotions like fear or anger. However, if punishment is administered in order to forestall or remove even more excruciating suffering, then it can be justified on utilitarian grounds. Mortality was a foundational concept for Kant's (Categorical Imperatives) morality. Bentham believed that punishment, "if it ought to be accepted, ought only to be admitted in as far as it promises to exclude some larger evil," should be justified on the basis of the principle of utility. A study by Bentham (2000) Bentham argues that the principle of utility should be used to determine the justification and application of punishment. Punishment is bad because it makes the punished feel bad or unhappy. Therefore, it can only be justified if it results in a bigger amount of other benefits or satisfactions (von Hirsch, A. 1992).

Bentham believed that punishment was wrong since it resulted in human suffering. Because he considers all punishment to be essentially bad, he argues that all punishment must be justified. Bentham, like Beccaria, thinks punishments should increase in severity as the severity of the offence does. Both of them stress that punishment must be objective and not based on subjective feelings like resentment or vengeance. Retributive punishment is seen as unjust and oppressive, thus the focus should be on preventing criminal behaviour instead. For example:

(O'Malley, P., 2009). Bentham almost gives in to the arguments of death penalty supporters. He writes that if a society or legislature is set on keeping the death penalty, it should save it for the most heinous of crimes, like murder, that carry with them aggravating conditions and have the potential to cause widespread death and damage. To cite the relevant literature: (Bedau, H. A. (1983). This punishment is not meant to be retaliatory, but rather corrective, preventative, and a deterrent to others who might repeat the same behaviour. Moreover, it must be morally justifiable because it serves a necessary purpose. Bentham was generally against capital punishment, but the preceding line suggests that he makes an exception for the most heinous of offences. He lacked the time to think of compelling utilitarian arguments in favour of complete elimination.

3.3 Case Study of India

Since ancient times, the death sentence has been legal in India. Even the most minor offences carried the death penalty before the Indian legal system was founded, and this type of sentence was commonly used in antiquity. The king at the time chose the punishment's severity and used it as a deterrent. After India gained its independence, the country transitioned to democracy, and the process for carrying out the death penalty also experienced significant change. Due to its legality and inclusion in the Indian Penal Code, India is one of the few democratic nations in the world that still uses the death penalty. However, India imposes the death penalty in accordance with the "Rarest of Rare Cases" principle, which was affirmed in the *Bachan Singh v. State of Punjab* case. Declaring war against the Indian government (Section 121 I.P.C.), aiding a mutiny, and other particular offences are covered under the provision of the Indian penal code that is contained in the Indian constitution that calls for the imposition of the death penalty (Section 132 I.P.C), giving false testimony with the intention of obtaining a conviction for a grave offence. (I.P.C. Section 194) Murder (Section 302 I.P.C) (Section 302 I.P.C) assisting or encouraging a child or mentally ill person to commit suicide (Section 305 I.P.C), Attempt at murder by a prisoner serving a life sentence. Murderous dacoity, Section 307 I.P.C. (Section 396 I.P.C). (Roy, D C .1933)

The Indian Penal Code violations for which the court may impose the death penalty after the Criminal Law Amendment Act of 2013 are as follows: Rape punishment usually results in death or long-term vegetative state for the victim (Section 376E I.P.C), sentence for a rapist who has engaged in the offence more than once. (I.P.C. Section 376E).

The right to life and personal liberty, including the right to live in dignity, are guaranteed under Articles 21 of the Indian Constitution. "No person should be deprived of his life or personal liberty unless in accordance with the method prescribed by law," the article declares. (The Indian Constitution, 2021) As a result, a person's personal and professional lives can only collide if they have committed a crime. Not all criminals are subject to the death penalty; in fact, the majority of offences are not; only the most heinous of crimes are given the death penalty. The death sentence should only be used as a last resort because it is severe and painful. The rationale presented above makes it evident how Bentham's ideas relate to the Indian criminal justice system. While the Indian criminal justice system and Kant both strongly support the death sentence, Kant believes that every murderer should receive the death penalty, which is not the case in India. They only favour the death penalty in the most severe situations, for the most horrific crimes of violence, and as a deterrent. The deterrent theory's major



objective is to prevent future offenders from committing the same offence for which they are being punished. According to Kant's idea of retribution, a person's transgression will be punished with an amount that is equal to his own. A closer look reveals that Bentham's viewpoint, not Kant's, was embraced by the Indian Justice System.

4. CONCLUSION

Based on what has been said thus far, it appears that Kant and Bentham held contrasting opinions regarding the use of the death penalty. According to Kant, punishment is "obligation for the sake of duty." It is our responsibility to conduct ourselves in a manner that is consistent with common decency at all times. It is considered unethical to commit crimes such as stealing, murdering, or lying. For example, when someone kills another person, they are communicating their conviction that they ought to be punished in the same manner as the victim they killed. At this stage, the use of retaliatory punishment becomes relevant because it satisfies the seeming demand that they have for death. Therefore, according to Kant, the use of the death penalty is an ethical practise. He came to the conclusion that retributive punishment is a responsibility that civil society has toward its criminals in their capacity as independent moral actors. Bentham, on the other hand, is an advocate of life imprisonment rather than the death penalty when it comes to the application of the death penalty. His views punishment as a form of evil due to the fact that it causes suffering, and he believes that no one enjoys being in pain. The previous debate makes it very clear that Bentham approves of punishment, but he views it solely as a method for rehabilitating offenders and discouraging future misconduct (to prevent future crime and to secure public safety). Bentham's theory on punishment is notable for placing a significant emphasis on the nature of incarceration as a kind of punishment.

Since the idea of punishment that Jeremy Bentham and Immanuel Kant put forward comes from their own point of view, I won't be delving into that aspect of the topic in this article, nor will I be discussing how punishment is used in contemporary criminal law. Since it is already sanctioned in every culture, and since it is common knowledge that the objective of contemporary criminal law with regard to the imposition of punishment is to guarantee public safety by means of both retribution and a deterrent, this practise should be punished. But if I were to give an opinion on the matter, it would be that we humans are rational beings. This would imply that we have specific cognitive abilities, specifically intellect and reason, which enable us to carry out a variety of cognitive tasks such as thought formulation, judging, and reasoning. However, this is just my own opinion on the matter. And at the same time, men are inherently corrupt, and it is quite difficult to discover a blameless guy. When it comes to feelings of rage and wrath, it is indisputable that every single individual possesses some degree of animal nature. However, because to the fact that we are logical beings and are conscious of what is appropriate and inappropriate, we have the power to exert control over our animal nature. Those who violate the law or conduct crimes are the ones who are required to serve their sentences when it comes to punishment. Sometimes mental health problems are the root cause of criminal behaviour, which can also be brought on by things like greed, hatred, envy, and acts of vengeance. Parents can help instil moral principles in their children by sending mentally ill persons to counsellors, sending criminals to rehabilitation institutions, or utilising other techniques to arrest criminals. This process begins at home. The rate of crime will go



down on its own, and the debate over whether or not the punishment is justified will be settled. As is common knowledge, education is the catalyst that alters the behaviour of humans to be qualitatively distinct from that of animals. The expression of this idea in no way constitutes opposition to the Punishment. Although it is true that the offender needs to be punished for the crime that he committed, we as a society need an alternative way of excluding the offence rather than the Punishment

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