

Lesson 1

Preliminary reflection on the death penalty.

Materials:

Lesson 1 Activity Handout
“Facts and Figures on the Death Penalty”

Time: 1 class period

Overview:

Students will identify and articulate their view on the death penalty. Students will have the option to share those views with the class and participate in a discussion. Finally, students will be asked to argue a case from an assigned role that might be a character whose feelings on the death penalty may differ from their own.

Objective:

- To illuminate the many complicated issues surrounding capital punishment.
- Students will develop skills taking multiple perspectives and thinking critically about other point of views.

Procedure:

1. Have students do a 3-minute “stream of consciousness” - writing continually for 3 minutes without removing their pen from the paper- on their emotions and thoughts on the death penalty.
2. Reconvene and have students volunteer to share their thoughts on the death penalty. Jot down major ideas and issues on the board as students speak. Be sure to write down questions as they come up.
3. Have the students look at the board and come up with common themes/ideas that the class seems to be interested and have students chose topics for the discussion. Allow debates and dialogues to develop between students. For example it might be helpful to highlight the need for justice, etc.
4. **Activity—**
 - Handout “Lesson 1 Activity Handout” and have students volunteer to read the scenario that is presented out loud to the class.
 - Make sure to explain that in these cases, the defendants have already been found guilty and that the students are to decide the punishment (life in jail without parole vs capital punishment, etc.).
 - Divide the class into 6 groups and assign each group a different role:
 - 1) In favor of death penalty for Andy Smith
 - 2) Against death penalty for Andy Smith
 - 3) In favor of death penalty for Jim Stiles
 - 4) Against death penalty for Jim Stiles
 - 5) In favor of death penalty for Sam Waltham
 - 6) Against death penalty for Sam Waltham
 - Assign each group different locations in the classroom where they can meet to discuss how they will argue their opinion. Allow groups 10 minutes to develop their argument.

- Bring the class back together and have a spokesperson from each group explain why the group feels that the defendant they were focusing on should or should not receive the death penalty.
5. Explain that the class is to embark on a unit exploring the death penalty and will look at many factors such as its ethical implications, its effects as a deterrent, impartiality of its administration, etc.. Explain that the activity they just completed touched on many of these issues and that they will learn about the legal process that leads up to the decisions they made.

Homework: Handout “Facts and Figures on the Death Penalty” for students to review at home. Have them answer the following questions in writing:

- a. Which topic from today’s discussion made the strongest impression on you? Why?
- b. Did today’s discussion affect the way you feel about the death penalty? Why or why not?
- c. What main points did the students in your class agree upon today? What points did they disagree upon? Why were these topics so controversial?
- d. What did someone say today that surprised you? Why did it surprise you?
- e. What questions do you wish you had asked today?
- f. Did any of the facts or statistics surprise you?
- g. What is your view on the death penalty?
- h. What purpose do you think the death penalty serves in today’s society?
- i. Is it ethical for the state to kill their prisoners?
- j. Do you think the criminal justice system is fair to all? Why or why not?

Lesson 1 Activity Handout

Andy Smith, Jim Styles, and Sam Waltham have been convicted of the abduction, rape and murder of Jane Robinson, a high school student.

Testimony is that the three men had been drinking and stopped to help the victim change a flat tire. They then forced her into their car, drove to secluded area, and raped and murdered the victim.

Smith is a 17-year old high school dropout with an IQ of 62

Styles is a high school graduate enlisted in the Air Force, but was dishonorably discharged. He is now a drug addict. He provided the car in the crime.

Waltham is a college freshman. He testifies he became friends with the other two against the advice of his parents and insists the other two forced him to go along with them. He claims that Styles was the ringleader, and denies taking part in the rape

Styles and Smith both testify that the crime was actually suggested by Waltham and that it was also his idea to kill the victim to prevent her from testifying against them. They insist they were both drunk and not thinking clearly.

Styles claims that Smith fired the fatal shot; Smith says it was Waltham; Waltham insists it was Styles. Waltham is black. Styles and Smith are white.

Some things to consider: kidnapping, rape, burglary, robbery while armed with a deadly weapon, defendant's age, mental faculty, uncertainty of facts, effect of alcohol and drugs, defendants role in the crime, etc.

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Facts and figures on the death penalty

Adapted from <http://www.amnesty.org>

1. Abolitionist and retentionist countries

Over half the countries in the world have now abolished the death penalty in law or practice.

Amnesty International's latest information shows that:

- **76** countries and territories have abolished the death penalty for **all crimes**
- **15** countries have abolished the death penalty for **all but exceptional crimes** such as wartime crimes
- **21** countries can be considered **abolitionist in practice**: they retain the death penalty in law but have not carried out any executions for the past 10 years or more and are believed to have a policy or established practice of not carrying out executions

making a total of **112** countries which have abolished the death penalty in law or practice.

- **83** other countries **retain** and use the death penalty, but the number of countries which actually execute prisoners in any one year is much smaller.

2. Progress towards worldwide abolition

More than **three** countries a year on average have abolished the death penalty for all crimes in the past decade. Over **35** countries and territories have abolished the death penalty for all crimes since 1990. They include countries in **Africa** (examples include Angola, Côte d'Ivoire, Mauritius, Mozambique, South Africa), the **Americas** (Canada, Paraguay), **Asia** (Hong Kong, Nepal) and **Europe** (Azerbaijan, Bulgaria, Cyprus, Georgia, Poland, Serbia and Montenegro, Turkmenistan and Ukraine).

3. Moves to reintroduce the death penalty

Once abolished, the death penalty is seldom reintroduced. Since 1985, over **50** countries have abolished the death penalty in law or, having previously abolished it for ordinary crimes, have

gone on to abolish it for all crimes. During the same period only **four** abolitionist countries reintroduced the death penalty. One of them - Nepal - has since abolished the death penalty again; one, the Philippines, resumed executions but has since suspended them. There have been no executions in the other two (Gambia, Papua New Guinea).

4. Death sentences and executions

During 2002, at least **1,526** prisoners were executed in **31** countries and at least **3,248** people were sentenced to death in **67** countries. These figures include only cases known to Amnesty International; the true figures are certainly higher.

In 2002, **81 per cent** of all known executions took place in China, Iran and the USA. In China, the limited and incomplete records available to Amnesty International at the end of the year indicated that at least **1,060** people were executed, but the true figure was believed to be much higher. At least **113** executions were carried out in Iran. **Seventy-one** people were executed in the USA.

5. Use of the death penalty against child offenders

International human rights treaties prohibit anyone under 18 years old at the time of the crime being sentenced to death or executed. The International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the African Charter on the Rights and Welfare of the Child and the American Convention on Human Rights all have provisions to this effect. More than **110** countries whose laws still provide for the death penalty for at least some offences have laws specifically excluding the execution of child offenders or may be presumed to exclude such executions by being parties to one or another of the above treaties. A small number of countries, however, continue to execute child offenders.

Seven countries since 1990 are known to have executed prisoners who were under 18 years old at the time of the crime - Congo (Democratic Republic), Iran, Nigeria, Pakistan, Saudi Arabia, USA and Yemen. Pakistan and Yemen have since raised the minimum age to 18. The country which has carried out the greatest number of known executions of child offenders is the USA (**13** since 1990).

Amnesty International recorded three executions of child offenders in 2002: all three of them were in the state of Texas in the USA. Another child offender was executed in the state of Oklahoma in April 2003.

6. The deterrence argument

Scientific studies have consistently failed to find convincing evidence that the death penalty deters crime more effectively than other punishments. The most recent survey of research

findings on the relation between the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 2002, concluded: ". . . *it is not prudent to accept the hypothesis that capital punishment deters murder to a marginally greater extent than does the threat and application of the supposedly lesser punishment of life imprisonment.*"

(Reference: Roger Hood, *The Death Penalty: A World-wide Perspective*, Oxford, Clarendon Press, third edition, 2002, p. 230)

7. Effect of abolition on crime rates

Reviewing the evidence on the relation between changes in the use of the death penalty and homicide rates, a study conducted for the United Nations in 1988 and updated in 2002 stated: "The fact that the statistics continue to point in the same direction is persuasive evidence that countries need not fear sudden and serious changes in the curve of crime if they reduce their reliance upon the death penalty".

Recent crime figures from abolitionist countries fail to show that abolition has harmful effects. In Canada, for example, the homicide rate per 100,000 population fell from a peak of **3.09** in 1975, the year before the abolition of the death penalty for murder, to **2.41** in 1980, and since then it has declined further. In 1999, 23 years after abolition, the homicide rate was **1.76** per 100,000 population, **43** per cent lower than in 1975. The total number of homicides reported in the country fell in 1999 for the third straight year.

(Reference: Roger Hood, *The Death Penalty: A World-wide Perspective*, Oxford, Clarendon Press, third edition, 2002, p. 214)

8. International agreements to abolish the death penalty

One of the most important developments in recent years has been the adoption of international treaties whereby states commit themselves to not having the death penalty. Four such treaties now exist:

- The **Second Optional Protocol to the International Covenant on Civil and Political Rights**, which has been ratified by **49** states. **Seven** other states have signed the Protocol, indicating their intention to become parties to it at a later date.
- The **Protocol to the American Convention on Human Rights to Abolish the Death Penalty**, which has been ratified by **eight** states and signed by **one** other in the Americas.
- **Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)**, which has been ratified by **41** European states and signed by **three** others.

- **Protocol No. 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)**, which has been ratified by **nine** countries and signed by **34** others.
- Protocol No. 6 to the European Convention on Human Rights is an agreement to abolish the death penalty in **peacetime**. The Second Optional Protocol to the International Covenant on Civil and Political Rights and the Protocol to the American Convention on Human Rights provide for the **total abolition** of the death penalty but allow states wishing to do so to retain the death penalty in wartime as an exception. Protocol No. 13 to the European Convention on Human Rights provides for the total abolition of the death penalty in all circumstances.

9. Execution of the innocent

As long as the death penalty is maintained, the risk of executing the innocent can never be eliminated.

Since 1973, **107** prisoners have been released from death row in the USA after evidence emerged of their innocence of the crimes for which they were sentenced to death. Some had come close to execution after spending many years under sentence of death. Recurring features in their cases include prosecutorial or police misconduct; the use of unreliable witness testimony, physical evidence, or confessions; and inadequate defense representation. Other US prisoners have gone to their deaths despite serious doubts over their guilt.

The then Governor of the US state of Illinois, George Ryan, declared a moratorium on executions in January 2000. His decision followed the exoneration of the **13th** death row prisoner found to have been wrongfully convicted in the state since the USA reinstated the death penalty in 1977. During the same period, **12** other Illinois prisoners had been executed. In January 2003 Governor Ryan pardoned four death row prisoners and commuted all 167 other death sentences in Illinois.

10. The death penalty in the USA

- **71** prisoners were executed in the USA in 2002, bringing the year-end total to **820** executed since the use of the death penalty was resumed in 1977.
- Over **3,700** prisoners were under sentence of death as of 1 January 2003.
- **38** of the 50 US states provide for the death penalty in law. The death penalty is also provided under US federal military and civilian law.