

Court Cases that Changed Capital Punishment and How the Death Penalty Functions Today

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The basic framework of the legal system is provided through processes established in substantive and procedural law. In general terms, substantive law defines the rights and duties of individuals while procedural law governs court proceedings (Pachecker, 2010). To develop a comprehensive understanding between the two requires an in-depth study of the nuances involved in legal requirements and court procedures. However, when a case involves capital punishment the complexities of substantive requirements and procedural processes are even more difficult to grasp given ongoing attempts by the Court to develop a satisfactory approach for implementing the death penalty (Mandery, 2011).

The Changing Landscape of Capital Punishment

The death penalty has been a part of American life since the Colonial Period when the first known execution occurred in 1608 (Bohn, 2011). Over one hundred years later, ratification of the Constitution and the subsequent adoption of the Bill of Rights in 1791 brought no significant changes to the implementation of the death penalty in America (Bedau, 1997). Gradual changes did begin to occur over the next fifty years with the prohibition of public executions and fewer crimes being punishable by death. The debate over the need for the death penalty was strengthened in 1846 when Michigan became the first state to abolish capital punishment for all crimes except treason (Bohn, 2011). Capital punishment would continue for the next one hundred years with the Constitution generally being interpreted as permitting the death penalty. However, during the 1950s arguments for abolishing capital punishment began to focus on the concept that cruel and unusual punishment violated the Eighth Amendment (Garvey, 2003). This debate continued until the late 1960s when the U. S. Supreme Court began to hear a series of constitutional challenges regarding the legality of capital punishment.

Involvement of the U.S. Supreme Court in the Capital Punishment Process

The U.S. Supreme Court began initiating changes to the administration of capital punishment laws in the 1960s. During this period of involvement by the Court, states essentially implemented a self-imposed moratorium on the use of the death penalty with no executions occurring by 1968 (Dukes, 2008). The rationale for this moratorium had less to do with public opinion and the civil rights movement of the 1960s than it did pending capital punishment cases before the Court. For all practical purposes, the states were waiting for favorable Court decisions before continuing with death penalty executions (Dukes, 2008). As the decade of the 1970s started the Court began a period of significant changes to the substantive and procedural laws associated with capital punishment. In the following decades, the Court would continue to interpret laws related to capital punishment to ensure that death sentences were properly administered (Zimring, 2003). However, in 2012 questions remain in capital punishment cases regarding whether death sentences are imposed in a fair and equitable manner (Bohm, 2011).

A Moratorium on Capital Punishment. A Moratorium on Capital Punishment. Prior to the 1970s, there were numerous capital punishment cases reviewed by the Court that revealed severe flaws in the application of the death penalty (Bohm, 2011). However, it was the Court decision in *Furman v. Georgia* (408 U.S. 238, 1972) which identified that imposition of the death penalty constituted cruel and unusual punishment in violation of Constitution (Bohm, 2011). While this decision resulted in an end to capital punishment in the United States, the moratorium only lasted for a few years until states revised their capital punishment laws and procedures to conform to the new Court identified standards. Once capital punishment resumed so did a decades-long period in which the Court implemented additional changes to death penalty laws within the United States (Herda, 1994).

Test Cases After Furman. The revised state death penalty laws allowing capital punishment to resume were quickly challenged and ruled upon by the Court. In *Gregg v. Georgia* (428 U.S. 153, 1976) issues associated with the manner in which a jury imposes the death sentence was reviewed. The result of the Court decision in Gregg, as well as four other state test cases, was the need for consistent standards that provided juries with guidance in the application of the death sentence (Bohm, 2011). The prevailing belief of the Court was that guided discretion statutes offered a reasonable approach in allowing the jury to consider both the defendant's character and the circumstances of the actual criminal act (Bohm, 2011).

Aggravating Circumstances. In *Coker v. Georgia* (433 U.S. 584, 1977) the death penalty had been imposed for a charge of rape. Consistent with the Court emphasis that capital punishment should only be used for more heinous crimes, the decision was reversed on the grounds that the death penalty was excessive punishment for an adult rape that did not result in the killing of the victim (Bohm, 2011). The Coker decision was extended to child rape in *Kennedy v. Louisiana* (554 U.S. 407, 2008) and had the effect of requiring aggravating circumstances to be present during the commission of a crime if a death sentence was to be imposed (Bohm, 2011).

Mentally Challenged Defendants. Changes in the application of the death penalty for cases involving mentally challenged defendants occurred as a result of the Court decision in *Atkins v. Virginia* (536 U.S. 304, 2002). The basic reasoning of the Court in the Atkins decision was that there was a risk of wrongful a conviction from unwitting confessions on the part of a mentally challenged individual (Bohm, 2011). Of particular concern to the Court was the inability of a mentally challenged individual to assist in their defense and that their courtroom demeanor could potentially result in biased opinions on the part of individual jury members.

Jury Trials in Capital Casts. A departure from challenges associated with the Fifth and Eighth Amendments to the Constitution occurred in *Ring v. Arizona* (536 U.S. 584, 2002). In this case, a jury decision of life in prison was later changed by a state judge to a death sentence. The subsequent decision by the U.S. Supreme Court was that the Sixth Amendment right of a defendant to receive a jury trial in a capital case was violated when the state judge changed the sentence from life in prison to death (Bohm, 2011). However, laws which allow a judge to impose life in prison without the possibility of parole in place of a jury decision of the death penalty has, to date, not been deemed unconstitutional (Bohm, 2011).

Juvenile Defendants. The Court ended the practice of executing juveniles in *Roper v. Simmons* (543 U.S. 551, 2005) based on a decision that the Eighth and Fourteenth Amendments prohibited execution of individuals under the age of eighteen (Bohm, 2011). The defendant in this case had been convicted of murder and sentenced to death until the Superintendent of the Correctional Center housing the inmate challenged the ruling of the Missouri Court. Subsequently, the U.S. Supreme Court ruled that the death penalty did not apply to individuals who committed a capital crime when they were under the age of eighteen.

Method of Execution. Cases involving the method of execution were not challenged on Constitutional grounds until *Baze v. Rees* (553 U.S. 35, 2008). The challenge in this case was that the use of lethal injection in fulfilling a death sentence imposed a cruel and unusual punishment in violation of the Eighth Amendment. However, the Court decided that lethal injection was not considered to be a cruel and unusual punishment and, therefore, did not violate the Constitution. (Bohm, 2011). In this and other subsequent decisions, the Court provided clarification that cruel and unusual punishment involved instances of a tortuous or lingering death (Bohm, 2011).

How the Death Penalty Functions Today

During the forty years since the death penalty was briefly halted in 1972, the Court has attempted to eliminate the arbitrary and discriminatory use of capital punishment (Bohm, 2011). Decisions of the Court Justices have sought to provide substantive requirements and procedural processes in capital punishment cases to ensure that there is no question regarding the fairness and equitable imposition of the death penalty (Bedau & Cassell, 2004). However, the efforts of the Court notwithstanding, the simple fact is that the fate of a defendant is often decided by the competency of their attorney and the composition of the jury rather than the actual criminal act that was committed (Lifton & Mitchell, 2002).

Fairness in Imposing the Death Penalty. Since the decision that mandatory death laws in capital punishment cases were unconstitutional, the Court has imposed numerous constraints to discretionary sentencing in an attempt to prevent arbitrary use of the death penalty. The underlying implementation of these constraints has led to the development of a super due process for use in capital punishment cases in an attempt to ensure the proper administration of death sentences (Zimring, 2003). This super due process intends to provide: strict guidelines to ensure that aggravating and mitigating evidence is considered in a death sentence; and an automatic appeal process to include a proportionality review (Bohn, 2011).

Two-Stage Trial Procedure. Current capital punishment laws generally require a two-stage (bifurcated) trial procedure. In this bifurcated trial process, the jury: first determines guilt or innocence; and then deliberates to decide whether the sentence will be imprisonment or death after considering the aggravating or mitigating circumstances of the crime (Oshinsky, 2010). The significance of a separate decision process is that in the sentencing phase a jury can receive additional information to determine the appropriateness of a death sentence.

Legislative Involvement. It is highly doubtful that any legislative body can eliminate the inherently arbitrary nature of imposing a sentence of death upon an individual. However, on the federal level, Congress is now becoming more involved in the issue of capital punishment through initiatives to change death penalty processes, as well as increase the number of crimes which can be punished by death (Bohn, 2011). Despite legislative efforts on a national level, an individual could commit a murder in a state that has capital punishment and be subject to the death penalty, while the same crime committed in another state without capital punishment would only result in a life sentence. This absence of an equitable mechanism for imposing capital punishment in all states may be the actual common ground in an ultimate decision to abolish the death penalty in favor of life without the possibility of parole (Agyeman, 2012).

Conclusion

The finality associated with sentencing an individual to death is uniquely different from other trial processes requiring a decision of guilt beyond a reasonable doubt. For this reason, the Court has attempted to ensure that substantive and procedural capital punishment laws provide for the fair and impartial implementation of the death penalty. However, capital punishment laws are administered by a court system is that plagued by recurring errors, inaccurate judgments and questionable decisions (Bedau & Cassell, 2004). In the late eighteenth century, abolitionists believed that the death penalty was no longer needed (Bohm, 2011). Similarly, in the early twenty-first century, the debate over the continued need of the death penalty in the United States continues, while the general consideration of the international community is that capital punishment is not an acceptable practice in modern society (Dieter, 2002). Accordingly, whether the Court can ever succeed in resolving all aspects of capital punishment substantive and procedural laws without actually abolishing the death penalty is yet to be seen.

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